CHAPTER FOURTEEN
PARKS AND LAND USE

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CHAPTER 14
PARKS AND LAND USE

ARTICLE I. PARK AND PLANNING COMMISSION

Division 1. In General

Sec. 14-1 Southeastern Wisconsin Regional Planning Commission.

(a) One (1) member of the Southeastern Wisconsin Regional Planning Commission is appointed by the governor.

(b) One (1) member is appointed by the county executive and shall be a member of the county board.

(c) The third member is appointed by the governor from a list submitted by the county executive.

(d) The provisions of section 7-94 shall apply to members of the commission.

(Mo. of 4-17-84, as amended, Rule 24)

Cross reference - Boards and commissions generally, § 4-95.
State law reference - Regional planning commissions, Wis. Stat. § 66.0309.

Sec. 14-2 Zoning agency and planning designated; hearing etc., on county or town zoning ordinances.

(a) The county park and planning commission is designated as the agent of the county board in all matters pertaining to zoning, and shall carry out all functions given to it under the Wisconsin Statutes.

State law reference - Authority to so provide, Wis. Stat. §59.69(2).

(b) The county shall refer to the park and planning commission for advice and recommendation on all matters pertaining to the physical improvement or development of the county.

(Res. No. 7, 4-27-54)

(c) All petitions for amendment of the county zoning ordinance shall be referred to the county park and planning commission for its consideration, holding public hearing thereon, report and recommendations according to law.

(d) Before the county board acts to approve or disapprove any town zoning ordinance or amendment thereof according to the provisions of law, such town ordinance or amendment thereof shall first be referred to the county park and planning commission for its report and recommendation thereon.

(Res. No. 9, 4-27-54)

State law reference - Approval of town zoning ordinance by county board, Wis. Stat. § 59.69(5).

Sec. 14-3 Participation in flood insurance program.

(a) The county board assures the Federal Insurance Administration that it takes the following legislative action:

1. It appoints the park and planning commission with the responsibility for review and recommendation on zoning and other land use matters.

2. The zoning administrator shall have the following duties:

   A. Delineate or assist the administrator, at his request, in delineating the limits of the areas having special flood and/or mudslide hazards on available local maps of sufficient scale to identify the location of building sites;

   B. Provide such information as the administrator may request concerning present uses and occupancy of the flood plain and/or mudslide area;

   C. Maintain for public inspection and furnishing upon request, with respect to each area having special flood hazards, information on elevations (in relation to mean sea level) of the lowest floors of all new or substantially improved structures;

   D. Cooperate with federal, state, and local agencies and private firms which undertake to study, survey, map, and identify flood plain or mudslide areas, and cooperate with neighboring communities with respect to management of adjoining flood plain and/or mudslide areas in order to prevent aggravation of existing hazards;

   E. Submit on the anniversary date of the community's initial eligibility, an annual report to the county executive and park and planning commission on the progress made during the past year within the community in the development and implementation of flood plain and/or mudslide area management measures;

   F. Take such other official action as may be reasonably necessary to carry out the objectives of the national flood insurance program;

   G. The park and planning commission shall have the overall responsibility, authority and means to implement all commitments made by this section.

(Res. No. 24, 5-22-73)

Sec. 14-4 Reserved.

Editor's Note: Former Sec. 14-4 regarding clean water fees was repealed by Ord. No. 160-26.

Sec. 14-5 Agricultural land preservation program.

The county board designates the county parks and land use department and the county soil and water conservation district board with the responsibility of reviewing farm preservation agreements and transmitting same with recommendations to the county board. The county board designates the county

parks and land use department with the responsibility of preparing an agricultural land preservation plan and ordinance for the county.

(Res. No. 197-3/78, 3-21-78)

Cross references - Agricultural preservation plan, § 14-30.
State law references - Farmland preservation, Wis. Stat. § 91.01 et seq.; agricultural preservation planning, Wis. Stat. §91.30 - 91.50.

Secs. 14-6 - 14-25 Reserved.

Division 2. Adoption of Plans

Sec. 14-26 Regional plans - Development.

(a) The following are adopted as a guide for regional and community development:

1. The regional land use and transportation plans previously adopted by the Southeastern Wisconsin Regional Planning Commission as set forth in Southeastern Wisconsin Regional Planning Commission Planning Report No. 7;

2. The transportation plan element recommended in the Regional Land Use and Transportation Plan for Southeastern Wisconsin for the year 2000 previously adopted by the regional planning commission as set forth in Southeastern Wisconsin Regional Planning Commission Planning Report No. 25 as an amendment and extension of the 1990 Regional Land Use and Transportation Plan;

3. The Southeastern Wisconsin Regional Planning Commission Planning Report No. 18, entitled A Jurisdictional Highway System Plan for Waukesha County, as previously adopted.

(b) The following highway segments identified in Southeastern Wisconsin Regional Planning Commission Report No. 18, entitled A Jurisdiction Highway System Plan for Waukesha County, as prospective arterials are included as prospective arterials in the year 2000 Regional Land Use and Transportation Plan:

1. C.T.H. "J" from its intersection with S.T.H. "74" in the east one half of section 13, township 8 north, range 18 east, east and north to Plain View Road then easterly over Plain View Road to Town Line Road also known as C.T.H. "V," thence northeasterly over new alignment approximately one half mile to intersect with Menomonee Avenue in the West one half of section 7, township 8 north, range 20 east;

2. C.T.H. "SS" from its intersection with I-94 northward and east to its intersection with C.T.H. "G;"

3. C.T.H. "TJ" also known as Silvernail Road, from its intersection with C.T.H. "JJ" westerly to its intersection with C.T.H. "T;"

4. C.T.H. "D" from its intersection with C.T.H. "DE" southerly and westerly to its intersection with C.T.H. "E;"

5. C.T.H. "U" from its intersection with Sunset Drive southerly to its intersection with C.T.H. 164;

6. C.T.H. "I" from its intersection with S.T.H. "83" south to the county line;

7. C.T.H. "EE" from its intersection with C.T.H. "E" south and easterly to its intersection with C.T.H. "I;"

8. C.T.H."NN" from its present intersection with existing S.T.H. "83" westerly to its intersection with S.T.H. "67;"

9. A new county trunk highway segment to be placed on the map from the intersection of C.T.H. "SS" and C.T.H. "G" easterly to its intersection with S.T.H. "16" south of the W.C.T.C. Campus.

(c) This section does not modify the established street and highway width map for the county.

(Res. No. 13, 5-16-67; Res. No. 71-7/78, 7-18-78)

State law reference - Local adoption of regional plans, Wis. Stat. § 66.0309.

Sec. 14-27 - 29 Reserved.

Editor's Note: Former Secs. 14-27 through 14-29 regarding the parks, Fox River watershed plan, and Pewaukee land use plan were repealed by Ord. No. 160-26.

Sec. 14-30 Agricultural land preservation plan.

(a) The Waukesha County Agricultural Land Preservation Plan is adopted.

(b) There is adopted and incorporated by reference the previously adopted Towns of Mukwonago and Eagle and the City of Muskego and the City/Town of Pewaukee Agricultural Preservation Plans as integral parts of the Waukesha County Agricultural Land Preservation Plan.

(c) The plan shall serve as a guide to local units of government in choosing courses of action relative to decisions regarding the preservation of agricultural lands appropriate to their situations and free of any mandates from the county, but the plan does not have the force and effect of law.

(d) When any other community hereinafter adopts an agricultural land preservation plan which is in compliance with sections 91.10 and 91.18 of the Wisconsin Statutes, the plan shall be made an integral part of the Waukesha County Agricultural Land Preservation Plan as an amendment thereto.

(Res. No. 190-11/84, 11-8-84)

Cross references - Agricultural land preservation program, § 14-5.

Secs. 14-31 - 14-60. Reserved.

Editor's Note: Former Secs. 14-46, 47,48, 49 and 50 regarding the regional plan, Lac La Belle and Okauchee Lake, Ashippun Lake and Pewaukee Lake repealed by Ord. No. 160-26.

ARTICLE II. SOLID WASTE MANAGEMENT BOARD

Sec. 14-61 Reserved.

Editor's note - Former Sec. 14-61 was repealed by Ord. No. 159-34, which eliminated the County Solid Waste Management Board.

Sec. 14-62 Reserved.

Editor's note - Ordinance No. 146-77, adopted Nov. 19, 1991, repealed former § 26-2, which pertained to the recycling advisory committee and derived from a motion of April 17, 1984, rule 32; Res. No. 26-5/84, adopted May 15, 1984; Ord. No. 14143, adopted June 27, 1986.

Sec. 14-63 Solid waste management plan.

The report entitled Solid Waste Management Plan for Washington and Waukesha Counties is adopted.

(Res. No. 104-Revised 8-80, 9-2-80)

Secs. 14-64 - 14-130 Reserved.

ARTICLE II. PARKS AND RECREATION

Division 1. Reserved.

Secs. 14-131 - 14-135 Reserved.

Editor's Note: Former Sec. 14-131 regarding sale of sodas at parks and golf courses repealed by Ord. No. 160-26.

Division 2. Park Rules

Sec. 14-136 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. *Camping Unit* shall mean a designated space for each vehicle, trailer, tent, and any other unit, which serves the intended purpose of providing shelter for the users.

2. *Commission* shall mean the Waukesha County Park and Planning Commission.

3. *Department* shall mean the Waukesha County Department of Parks and Land Use.

4. *Director* shall mean the head of the Department of Parks and Land Use and serve as the general manager of the parks system.

5. *Employee* shall mean full-time, part-time, permanent or temporary worker in the employ of the department. Employee shall also include unpaid volunteers.

6. *Lake Access* shall mean sites designated by the department to launch watercraft onto waterways.

7. *Park* shall mean any park, greenway, open space, arena, golf course, special use area, trail corridor or any other area owned, improved, maintained, operated, including buildings therein, or otherwise controlled by Waukesha County for recreation or natural resource preservation purposes.

8. *Permit* shall mean the written permission that must be obtained from the department to carry out certain activities.

(Ord. of 12-8-58, § 2; Ord. No. 166-35, §1, 08/02/11)

Sec. 14-137 Purpose.

The purpose of this article is to specify rules and regulations to provide for use and enjoyment of the Waukesha County Park System so as to further the safety, health, enjoyment and welfare of all persons in the use thereof, to provide for the protection and preservation of property, facilities and natural resources.

(Ord. of 12-8-58, § 1; Ord. No. 166-35, §2, 08/02/11)

See. 14-138 Scope.

This article applies only to areas identified as parks by Waukesha County.

(Ord. No. 166-35, §3, 08/02/11)

Sec. 14-139 Rules and regulations.

Until otherwise directed by the county board, the department may adopt additional or revised rules and regulations for the proper conduct and administration of the parks in the county that are not inconsistent with ordinance, and may perform such other acts with reference to the management of the parks as are lawful and as it may deem expedient to promote the beauty and usefulness of said parks and to increase the comfort, safety, convenience and public welfare of the citizens of the county and of visitors to the parks in their use of same.

(Ord. of 12-8-58, § 14(C))

Editor's note: Reference to parkway removed 08-24-11.

Sec. 14-140 Penalties.

(a) Any person violating any of the provisions of this article shall, for each offense, forfeit a penalty of not less than ten dollars ($10.00) or more than six hundred dollars ($600.00) together with the taxable costs in the action in the discretion of the court, and in default of payment thereof shall be imprisoned in the county jail for a period not to exceed ninety (90) days, in the discretion of the court.

1. Fees shall be in accordance with 130-102(d) and the Park Ranger Forfeiture Schedule, which is on file with the department.

2. Whenever an arrest shall have been made or any violation shall occur, the District Attorney shall prosecute by law.

(b) Any law enforcement officer of the County or any of its municipal subdivisions may without a warrant arrest any offender whom they may detect in the violation of any of the provisions of this chapter and take the person so arrested immediately before a magistrate having competent jurisdiction and he shall have at all times the right to enter the premises of any County building, structure or enclosure in any park or greenway, including such grounds, buildings, structures or enclosures which may be leased or set aside for private or exclusive use of any individual or group of individuals for the purpose of arresting violators and use all necessary means to attain that end. Any parks division employee designated by ordinance may issue citations, as according to 13-101, to any person whom he or she believes is violating any of the provisions of this ordinance.

(Ord. of 12-8-58, § 15(B); Ord. No. 166-35, §4, 08/02/11)

Sec. 14-141 Permits generally.

(a) All permits required by this article shall be issued by the director or by the director's designee, shall be in writing, and shall be subject to park rules and regulations. Permits shall be required for the exclusive use of all or portions of specific areas, buildings and other park facilities for conducting special events. The director shall have the authority to revoke a permit. Permits may not be transferred or relinquished to another person or group of persons without written authorization from the director.

(b) The persons to whom such permits have been granted shall be fully bound by the rules and regulations as though the same were inserted in the permits, and any person to whom a permit has been issued shall be liable for any loss, damage, or injury sustained or by any person by reason of the negligence of the person to whom the permit has been issued, their servants or agents.

(Ord. of 12-8-58, § 14(A); Ord. 154-03, §1, 4/27/99; Ord. No. 166-35, §5, 08/02/11)

Sec. 14-142 Leasing of equipment.

The department is authorized to lease equipment suitable for recreational purposes to private organizations upon such terms as it may determine provided that any such lease shall contain the provision binding the lessee to save and keep the county harmless from any and all liability whatsoever arising out of the leasing and use of such equipment, and provided further that the department may, in its discretion, in each case require lessee to provide public liability insurance covering the use of such equipment.

(Ord. of 12-8-58, § 14(B))

Sec. 14-143 Reserved.

Editor's note - Ordinance No 147-151, § 4, adopted March 23, 1993, repealed § 20-33, which pertained to powers of peace officer and derived from an ordinance of December 8, 1958, § 15(A).

Sec. 14-144 Operating hours.

(a) Except for vehicular traffic moving through streets or roadways, and except when the department publishes general permission or permission through permit to use all or certain parks the parks shall be closed at 10:00 p.m. each night until sunrise the following morning, and no person shall remain therein during those hours, except for registered campers in or en route to designated campgrounds and persons transporting watercraft to and from designated boat landings are permitted at any hour. The

department may from time to time, in all or any of the parks, publish or post closing hours different from the above, or discontinue closing hours, as in the exercise of the judgment of the director may appear reasonable and necessary.

(b) In case of an emergency, or when in the judgment of the department the public interest demands it, any portion of the parks or buildings therein may be closed to the public or to designated persons until permission is given to return.

(Ord. of 12-8-58, § 3(A), (B); Ord. No. 166-35, §6, 08/02/11)

Sec. 14-145 Interference with park employees.

It shall be unlawful for any person to knowingly:

(a) Interfere with or in any manner hinder any employee or agents of the department from performing their assigned duties. Interfering includes, without limitation, knowingly giving false information to an employee with intent to mislead the employee in the performance of duty including the issuance of any citation.

(b) Obstruct an employee while in the discharge of duties in an official capacity and with lawful authority.

(Ord. of 12-8-58, § 3(C); Ord. No. 166-35, §7, 08/02/11)

Sec. 14-146 Use of liquor in parks.

It shall be unlawful for any person to:

(a) Use, possess or sell any alcoholic beverage in violation of Wisconsin Statutes. “Alcohol beverages" means fermented malt beverages, intoxicating liquor, and wine as defined in Wisconsin Statute 125.02.

(b) Serve, possess, or consume any alcoholic beverage except:

1. Beer and wine in areas designated by the director. Any person must obtain a permit in order to bring beer and wine into a park in kegs, barrels or other tap quantities.

2. By permit or concessionaire agreement approved by Director.

(c) Serve, possess, or consume any alcoholic beverage at sites where the department or its agent is a licensed vendor of alcoholic beverages unless purchased at that site.

(Ord. of 12-8-58, § 3(D); Ord. No. 166-35, §8, 08/02/11)

Sec. 14-147 Disorderly conduct.

(a) No person, or group, using a park, shall perform or permit others under their custody or control to perform any of the following acts:

1. Violate any duly established rule for the use of the park.

2. Prevent any person from using any park or any of its facilities or interfere with such use, which is in compliance with this chapter and rules applicable to such use.

3. Engage in violent, threatening, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance in any park.

4. Commit, perform or engage, nor solicit or ask anyone to engage, in any lewd, lascivious, obscene or indecent act.

5. Endanger the safety of or damage the property of any person by any conduct of act.

6. No person shall use docks or piers adjacent to any lake access facility in any manner as to obstruct or hinder the launching, landing, loading or unloading of watercraft.

7. No person shall intentionally deface, vandalize or remove from park property, buildings, equipment or facilities; or intentionally deface, destroy, cover, damage or remove any placard, notice, or sign or parts thereof, whether permanent or temporary, posted or exhibited by the Department.

(b) Any person violating any of the prohibitions enumerated in subsection (a) may be removed from any park.

(Ord. of 12-8-58, § 3(E); Ord. No. 166-35, §9, 08-02-11)

Sec. 14-148 Smoking; throwing lighted cigarette or cigar out of motor vehicle.

(a) No person shall be permitted to smoke, or to hold a lighted cigarette, cigar, or pipe in any building, or section of a building, or in any park where officially posted notices so prohibit.

(b) No person shall throw or drop a lighted cigar or cigarette stub or empty a lighted pipe from a motor vehicle moving along a park drive.

(Ord. of 12-8-58, § 3(F); Ord. No. 166-35, §10, 08-02-11)

Sec. 14-149 Littering.

No person shall knowingly:

(a) Throw, deposit, scatter, drop or abandon in any park, any paper, bottles, cans, sewage, waste, trash or other debris, except in receptacles provided by the department for such purpose. Where receptacles for rubbish are not provided, all waste shall be carried away from the park by the person

responsible for its presence.

(b) Deposit in any receptacle any accumulation of waste and trash generated outside the boundaries of the park.

(c) Deposit or leave garbage, sewage, or waste material upon any body of water.

(d) Upset or turn over the contents of any receptacles or recycling container in any park.

(Ord. of 12-8-58, § 3(G); Ord. No. 166-35, §11, 08-02-11)

Sec. 14-150 Permit for public meetings and assemblies.

(a) Planned or advertised public meetings and assemblies, or sporting and athletic events, are allowed in parks only by written permit issued by the director of parks and land use or by the director's designee.

1. Application for permits shall be made in writing and received by the director no less than 10 working days prior to the event and shall state:

   A. The name, address and telephone number of the applicant.

   B. The name and address of the person(s), corporation or association sponsoring the activity.

   C. Description of the activity to be conducted.

   D. The name of the park and the part thereof for which the permit is requested.

   E. The date of the proposed activity, and the hour at which it will begin and end.

   F. The estimated attendance.

   G. Special needs, i.e., kitchen, utilities, parking, tent, sound, security and others.

2. A permit shall be issued to an applicant for the facility requested if:

   A. Subsection 1 has been satisfied.

   B. The place requested has not been reserved by other permits.

   C. The site or facility requested will safely accommodate the anticipated attendance, the activity will not physically damage the site, and the activity is not proscribed by law; and for athletic or sporting events, the site will accommodate the activity to be conducted.

3. Any applicant for a permit under this section shall have the right to appeal the denial of a permit to the Executive Committee of the County Board. The appeal shall be made within 10 days of the denial of the permit, and shall be made by filing a written notice of

the appeal in the Office of the Chairman of the Waukesha County Board. The Executive Committee shall act upon the appeal within 30 days of receipt of the notice of appeal by the Office of the County Board Chairman.

(Ord. 154-03, § 2, 4/27/99)

Editor's note: Reference to parkway removed 08-24-11.

Sec. 14-151 Reserved.

Sec. 14-152 Noise.

(a) No person shall use or operate any radio, tape or disc player, musical instrument or other mechanical or electrical sound making, reproducing or amplifying device in a park so as to be heard at a distance greater than (a) 15 feet from the instrument, device, radio or tape or disc player if used in a campsite area, or (b) 75 feet from the instrument, device, radio or phonograph if used in a non-campsite area.

(b) No such radio, tape or disc player, musical instrument or above-described device may be used or operated within a park within 75 feet of the legal boundaries of the park such that the device can be heard outside the park.

(c) The director of parks and land use or the director's designee may authorize or permit musical shows, cultural events, public gatherings, and exhibitions which are not limited by this section.

(Ord. 154-03, § 4, 4/27/99)

Editor's note: Reference to parkway removed 08-24-11.

Sec. 14-153 Sales and Handouts.

(a) No person shall sell, or offer for sale, any article, merchandise, or thing, nor promote any trade, occupation, business or profession, for commercial purposes in any park without a written permit from the director of parks and land use or the director's designee.

(b) No person shall deposit, place or scatter any material in any park. It shall not be unlawful, however, to hand out or distribute, without charge to the recipient, any printed or written material to any person willing to accept it.

(c) No person shall deposit or place any material in or upon any vehicle in any park unless the owner or occupant of the vehicle is willing to accept it.

(d) Any person who distributes any material shall keep the area of distribution free of any litter caused by or related to the distribution.

(e) No person shall post, stick or otherwise affix any item or material to or upon any tree, equipment or structure of any kind in any park.

(f) In this section, "material" means and includes any printed or written matter, any sample or

device, circular, leaflet, pamphlet, newspaper, magazine, paper, book, or other printed or otherwise reproduced original or copies of any matter or literature.

(Ord. 154-03, § 5, 4/27/99)

Editor's note: Reference to parkway removed 08-24-11.

Sec. 14-154 Games and amusements; gambling prohibited.

No person shall engage in any sport, game, race, or amusement in any park except upon such portion thereof as may be designated for that purpose, and then only under such rules and regulations as may be established by the commission.

(Ord. of 12-8-58, § 4(F); Ord. 154-03, § 6, 4/27/99)

Editor's note: Reference to parkway removed 08-24-11.

Sec. 14-155 Permits for picnic areas and interference with permittees prohibited.

(a) No person shall in any manner disturb, harass or interfere with any person or party holding a written permit from the commission or with any such person's or party's equipment or property.

(b) Permits for the exclusive use of any picnic or play area for any specific date or time may be granted at the discretion of the commission, and no person shall in any manner disturb or interfere with any person or party occupying the ground under such a permit, or with any of such person's or party's equipment or property.

(Ord. of 12-8-58, § 4(G))

Sec. 14-156 Weapons and fires.

(a) No person shall carry, fire, or discharge any gun, pistol, or firearm, nor any rocket, or any other fireworks of any description, nor shall any person engage in trapping; nor shall any person hunt with bow and arrow within any park, except as provided below in (2). The word "gun" includes air gun.

1. No person shall possess or discharge any fireworks regulated by s. 167.10(1), Wis. Stats. in parks except that exhibitions of fireworks given under the direction or by the permission of the Director or an authorized agent are permitted.

2. No person shall have in their possession or under their control any firearm as defined in s. 167.31(c), Wis. Stats., or air gun as defined in s. 939.22, Wis. Stats., unless the same is unloaded and encased or any bow unless the same is unstrung or enclosed in a carrying case in any park except those areas of the park where bows are permitted on designated ranges and in accordance with posted regulations and except where in use for hunting purposes following State of Wisconsin hunting regulations on lands designated for such purpose in the Waukesha County Park and Open Space Plan, as required through a grant condition for the purchase of the property or otherwise authorized in this code.

(b) No person shall throw or shoot an arrow, knife, stone, paintball or other projectile, by hand or any other means, in any park. This subsection shall not apply to arrows used on archery ranges authorized by the Department or for the discharge of a bow or firearm for hunting purposes as authorized by this code.

(c) No person shall start, tend or maintain any fire or burn any refuse except at designated fireplaces, fire rings or permanent grills within any park.

1. The use of charcoal burners in designated picnic areas shall be permitted provided lawns and other vegetation are not damaged and provided further that all unburned coals or ash are disposed of in such manner as to prevent fire or damage to any park property. Charcoal residue or wood ash shall be left in a grate or fireplace until cool or placed in receptacle provided for such purposes.

2. Fires for cooking or heating may be made in portable metal stoves, heaters, grills or replaces at the picnic areas or designated campgrounds.

3. No person shall abandon any fire, leave any fire unattended, or throw away any matches, cigarettes, cigars, pipe ashes or embers without first extinguishing them.

4. To reduce the risk of transporting exotic invasive species, firewood is not allowed to be brought into the parks by the public.

(Ord. of 12-8-58, § 5; Ord. No. 166-35, §12, 08-02-11)

Sec. 14-157 Animals.

(a) Animals in Public Facilities. No person shall allow a dog or other animal to enter any public buildings, bathing beaches or picnic grounds in any Park, except for a service animal specially trained to perform tasks benefitting a person with a disability or to provide support for mobility-impaired persons or as authorized by the department.

(b) Animals running at large. No person shall allow a dog or other animal to run at large in any park. The animal shall be considered as running at large, unless it is on a leash, in or upon a vehicle, or in an area designated as off-leash.

(c) Exercising animals. No person shall exercise or walk a dog or other animal in any park without a leash. A leash shall not be more than 6 feet in length. Shock collars cannot be used in lieu of a leash. No leash is required when dog is swimming in approved areas. No leash is required during dog shows or training programs authorized by the department.

(d) Animal feces.

1. The owner or person having immediate care, custody or control of a dog or other animal shall promptly remove and dispose of, in a sanitary manner, any feces left or deposited by the animal upon any park.

2. No person shall permit a dog or other animal to be on any park unless such

person has, in their immediate possession, an appropriate means of removing animal feces.

(e) Horses.

1. No person shall ride or use a horse or other beast of burden in any manner in any park, except on designated bridle trails or for events authorized by the department.

2. No person shall ride or use a horse or other beast of burden in a careless, negligent or reckless manner so as to create a nuisance or to endanger life, property or person of others.

(Ord. of 12-8-56, § 6; Ord. No. 166-35, §13, 08-02-11)

Sec. 14-158 Fish, waterfowl, game birds.

(a) Fishing is permitted unless prohibited by posted signs, and provided state law and state department of natural resources rules and regulations are observed.

(b) No person shall throw any object into the waters of the parks so as to injure or unnecessarily disturb the fish in said water.

(c) No person shall take, catch, kill, hunt, trap, pursue or otherwise disturb any wild animals or rob or disturb the nest of any bird in any park unless authorized by the department.

(d) Hunting is allowed on department approved park properties designated in the Waukesha County Park and Open Space Plan or as required through a grant condition for the purchase of the property as allowed by permit or general authorization.

(e) Bag limits, daily hours, licenses or other regulations are in accordance with those rules and regulations established by the Wisconsin Department of Natural Resources.

(f) Possession and discharge of bows and firearms are subject to local municipal regulations.

(g) Permanent blinds and stands are not permitted. All stands and blinds must be removed at the close of each day. The damaging of trees or removal of vegetation is prohibited.

(h) Target practice or shooting not associated with the actual harvest of licensed game is prohibited, except in areas designated by the department.

(Ord. of 12-8-56 § 7(A); Ord. No. 166-35, §14, 08-02-11)

Sec. 14-159. Injury to vegetation, structures, and equipment.

(a) Destruction and entry

1. *Deface, remove or destroy.* No person shall disturb, molest, deface, remove or destroy any trees, shrubs, plants or other natural growth; disturb or remove

shoreline rip-rap; carve on any rocks, archaeological or geological features, signs, walls or structures including buildings, signs, fences, tables or other park property. Edible fruits, nuts, wild mushrooms and wild asparagus may be gathered without permit, except on State Natural Areas.

2. *Entry and manipulation.* No person shall enter in any way any building, installation or area that may be under construction or locked or closed to public use or molest or manipulate any water control structure, dam or culvert or enter or be upon any building, installation or area after the posted closing time or before the posted opening time or contrary to posted notice in any park.

(b) No person shall without written authorization of the director:

1. Intentionally remove, alter, injure or destroy any natural resource.
2. Dig trenches, holes or other excavation in a park.
3. Plant or cultivate any plant, or release any animal into the park.

(Ord. of 12-8-56, § 7(B); Ord No. 166-35, §15, 08-02-11)

Sec. 14-160 Removal of ice or sand prohibited.

No person shall take ice from any stream or lake within any park, nor remove any sand therefrom or from the shores thereof without written permit from the department.

(Ord. of 12-8-56, § 7(C))
Editor's note: Reference to parkway removed 08-24-11.

Sec. 14-161 Aircraft landing prohibited.

No person shall ascend or land with any aircraft, including gliders and parachutes, nor engage in stunt flying or parachute landing in any park without the written permit of the department.

(Ord. of 12-8-56, § 7(D))

Editor's note: Reference to parkway removed 08-24-11.

Sec. 14-162 Sleeping or camping.

(a) Camping prohibited. Camping is prohibited in all parks, except at designated campgrounds or other areas authorized by the department.

(b) Designated campgrounds. Designated campgrounds are those family and group campgrounds within established Parks.

(c) Camping permit. No person shall set up camp prior to completing and displaying a camping permit. All camping fees shall be prepaid for the permit period prior to occupying the campsite as provided in this chapter relating to a fee or charge established by the Department. Campsite use shall be on a first come, first served basis.

(d) Camping limited, designated campgrounds. No person shall camp and no camping unit shall remain in a designated campground for a period greater than 7 consecutive days. The camping unit shall be removed from the property for at least 24 hours before being eligible to return.

(e) Family campsite occupancy.

1. No more than one camping party shall occupy a family campsite.
2. No camping party consisting of a nonfamily group shall exceed five persons.

(f) Campsite changes. No camping party shall move from its assigned campsite to another campsite without prior approval.

(g) Camping permit expiration. All camping permits expire at 3 p.m. on the last day of the permit period.

(h) Camping permit extensions. Extensions within the 7 day limit may be granted on camping permits. Extensions shall be obtained prior to 10 a.m. on the expiration date of the permit.

(i) Campsite entry hours. No camping party shall start setting up or taking down a camping unit between the hours of 11 p.m. and 6 a.m.

(j) Campsite reservations. Campsite reservations will be accepted only for group campgrounds.

(k) Camping contrary to posted notice. No person shall camp on any lands under the management, supervision or control of the department contrary to posted notice.

(l) Camping violations. A violation of any State law or any rules of the department by a member of a camping party is cause for revocation of the camping permit.

(m) Campground quiet hours. No person shall make or cause to be made any unreasonable sounds or noises in or adjacent to any designated campground as provided in this section between the hours of 10 p.m. and 6 a.m.

(Ord. of 12-8-56, § 7(E); Ord. No. 166-35, §16, 08-02-11)

Sec. 14-163 Public utilities and private construction.

(a) The location of all sewers and receivers, gas pipes, water pipes, stopcock boxes, hydrants, lamp posts, telegraph, telephone, and electric power posts and lines, manholes, conduit and pumps within any park shall be subject to the jurisdiction and control of the department and their construction, erection, repair or relocation shall be undertaken only after written permission is received from the department.

(b) *Private Construction.* No curb, whether stone, concrete or grass, shall be cut for the purpose of constructing a private driveway across any park border nor for any other purpose, without written permission from the department. The location, width, grade, and construction of all paths, driveways and roadways across any sidewalk border along any park shall be subject to the approval of and constructed only after written permission thereof is obtained from the department. Every person who shall receive a permit to open a trench, to cut a curb, or to deposit materials in or upon any park shall at all times after such work has been commenced or materials deposited, and until the same has been completed, and until all accumulations of materials resulting from such work have been removed, so guard and protect the

same that persons driving or passing along the roadway, sidewalk, or in the vicinity of the place where the work is being done, shall not be likely to meet with any accident therefrom. Such a person shall also during the time from sunset to sunrise, each night while said work is in progress, cause the same to be securely fenced and guarded by a warning light or lights placed in a conspicuous position, and so secured that the same shall not be extinguished.

(Ord. of 12-8-58, § 8; Ord. No. 166-35, §17, 08-02-11)

Editor's note: Reference to parkway removed 08-24-11.

Sec. 14-164 Traffic regulations.

(a) No person shall drive any automobile, motorcycle, or other vehicle of traffic or burden upon any part of the parks except the proper drives and parking areas, or permit the same to stand upon the drives or any part thereof so as to congest traffic or obstruct the drive.

(b) No person shall cause any taxicab, bus, limousine or other vehicle for hire to stand upon any art of the parks for the purpose of soliciting or taking in passengers or persons other than those carried to the parks by the vehicle, unless licensed by the department.

(c) No person shall cause any bus, cart, dray, wagon, truck, trailer, or other vehicle carrying goods, merchandise, manure, soil, or any other articles, or solely in use for the carriage of goods, merchandise, manure, soil or other article, to enter or be driven in any part of the parks. This subsection shall not apply to vehicles engaged in the construction, maintenance, or operation of the parks, to vehicles making deliveries to the parks, or to busses under permit of the department.

(d) It shall be the duty of every person operating an automobile, motorcycle, or other vehicle of traffic or burden within the parks to comply with the state, county and municipal traffic laws and with all orders, directions, and regulations of traffic officers, or officially displayed on any post, standard, sign, or device installed for the regulation of traffic.

(e) The department shall cause signs to be erected indicating speed limits on roads and drives. Where no such signs are posted the speed shall in no case be greater than twenty-five (25) miles per hour.

(f) The department shall cause to be erected such other traffic control signs as are necessary or which might become necessary for the proper regulations and safe movement of vehicles, pedestrians, and equestrians.

(g) Vehicles normally shall be parked in designated parking areas. Parking along roads and drives may be controlled by appropriate signs.

(h) No person shall operate a motor vehicle in an abusive, boisterous, unreasonably loud or otherwise disorderly manner under circumstances which tend to cause or provoke a disturbance. Such conduct shall include, but not be limited to, conduct which tends to disturb, annoy or endanger one or more persons because of unnecessary or deliberate spinning of wheels, squealing of tires, revving of the engine, blowing the horn, causing engine to backfire or causing vehicle while commencing to move or in motion to raise one or more of its wheels, tracks or skis off the ground or operate at an unreasonable or imprudent speed in any park.

(i) No person shall operate or park any motor vehicle, except as provided in this subchapter, upon any bridle path, hiking trail, beach area, playground, picnic area or any other area other than established roads, parking areas, lake access and service areas or contrary to posted notice or within any park seasonally closed to vehicular traffic.

(j) No person shall leave any vehicle unattended without the approval of the Department or its authorized agent for more than 48 hours under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. An abandoned vehicle shall constitute a public nuisance and be subject to removal at the owners' expense. Removal of the vehicle shall not relieve the owner or operator of the vehicle from any penalty incurred because of such violation.

(Ord. of 12-8-58, § 9; Ord. No. 166-35, 08-02-11)

Editor's note: Reference to parkway removed 08-24-11.

Sec. 14-165 Bicycles.

(a) Riders of bicycles shall comply with Wisconsin Statutes, sections 346.77 through 346.82.

(b) Bicycles are only allowed on designated trails.

(c) Bicycle riders shall proceed in the extreme right hand lane of the drives at all times, in a single file only.

(d) A bicycle shall not be towed by a rope or otherwise, nor shall any rider hold on to any moving vehicle for purpose of being drawn along.

(e) Children riding bicycles that have wheels less than twenty (20) inches in diameter may use the footwalks.

(f) Wherever possible, bicycles shall be parked in places provided for such purpose.

(Ord. of 12-8-56, § 10; Ord. No. 166-35, §20, 08/02/11)

Sec. 14-166 Horseback riding.

(a) No person shall ride horseback in any park except upon designated roadways and bridle paths.

(b) No person shall be permitted to ride horseback in any park after dark or before daybreak.

(c) No person shall be permitted to ride or drive a horse which cannot be held under such control that it may be easily turned or stopped.

(d) No person shall be permitted to ride or drive a horse in a reckless manner.

(e) Pedestrians shall have the right of way when crossing a bridle path, and whenever groups of people are visible within three hundred (300) feet, horse shall be ridden at a slow gait.

(f) Every rider shall comply with all department rules and signs along the bridle paths.

(Ord. of 12-8-56, § 11)

Editor's note: Reference to parkway removed 08-24-11.

Sec. 14-167. Bathing and swimming regulations.

(a) It shall be unlawful for any person to:

1. Wade, bathe, or swim within a park except at such pools or beaches as are or may be designated for that purpose by the department.

2. Take any food or beverage into the water of any area designated for wading, bathing or swimming under (a), above.

3. Take any glassware or bottles of any kind except eyeglasses on to any grass or sand area of a designated beach or pool for bathers.

4. Use water flotation devices when a lifeguard is on duty, except for U.S. Coast Guard approved lifejackets and vests that are of a proper size and are worn and secured properly.

5. Bring in or consume any alcoholic beverages of any kind in designated beach areas.

(b) Non-swimmers are restricted to areas designated. Children 5 years of age or younger must be supervised by an adult. All persons, regardless of age, may be asked to demonstrate their swimming proficiency at the discretion of department employees.

(c) Patrons of any area designated for wading, bathing or swimming are to speak to lifeguards only in the case of an emergency and are not permitted to interfere with the execution of a lifeguard's duties or responsibilities.

(d) Swimmers and bathers shall comply with all rules and regulations that are posted at beaches, pools or in bathhouses or other buildings.

(e) Failure to comply with any rules or regulations may result in the violator being required to leave the beach, pool, or bathhouse or other enforcement actions permitted by law.

(f) *Boundary Buoys*. No person shall disturb or molest a beach boundary buoy or marker in any swimming beach in any park or moor or cause to be within that area of water enclosed in the boundary buoys any boat, raft or craft used to transport persons.

(g) *Beach Athletics*. Except in locations designated for such purpose, no person shall engage in any athletic game or sport or in any activity upon a bathing beach or in the water when injury or inconvenience to others might result therefrom except with written permission of the Department.

(h) *Bathing attire.* No swimmer or bather shall enter the water or onto any beach unless clothed in a suitable bathing suit.

(i) Scuba diving is permitted in designated areas.

(Ord. of 12-8-56, § 12; Ord. No. 166-35, §21, 08-02-11; Ord. No 170-30, 07-23-15.)

Editor's note: Reference to parkway removed 08-24-11.

Sec. 14-168 Boat launching and docking regulations.

(a) No person shall launch or dock any boat or other watercraft except at locations or facilities provided and designated for that purpose by the department.

(b) No person shall launch or dock any boat or other watercraft except at such times as are designated by the department.

(c) No person shall store or leave unattended overnight any boat or other watercraft without the written permission of the department.

(d) All persons using the boating facilities of the county park system shall comply with all posted regulations of the department.

(Ord. of 12-8-56, § 13)

Sec. 14-169 Encroachments prohibited.

It is unlawful for any person to encroach on park property with such items as fences, gardens, other personal property, or to disturb the natural landscape, vegetation or structures on park property, on park property or otherwise use park property for private use. All setbacks and other local zoning regulations are in effect and apply against properties adjacent to parks as they would against property adjacent to private property.

(Ord No. 166-35, §22, 08-02-11)

Sec. 14-170 Fees and special use permitting.

(a) Fee schedule. No person shall use any facility, shelter, land or area for which a fee or charge has been established by the Director without payment of such a fee or charge in advance, except for open shelters which may be used if not reserved.

(b) Special Use Agreements shall be required for all events that allow for public invite to the event, closure of areas, special equipment or amusement features.

(Ord. No. 166-35, §23, 08-02-11.)

Secs. 14-171 - 14-180 Reserved.

ARTICLE III. EXPOSITION CENTER

Sec. 14-181 Management and maintenance.

The responsibilities for the development and operation of all buildings and grounds of the Exposition Center is vested in the department with the county park and planning commission acting as the liaison committee to the department.

The department shall establish, adopt and administer all fees and policies to be used in the operation of the Exposition Center.

(Res. No. 25-5/82, 6-15-82; Mo. of 4-17-84, as amended, Rule 22; Res. No. 78-6/85, 8-18-85)

Sec. 14-182 Fees and policies.

All fees and policies for the administration of the Exposition Center adopted by the County Parks and Land Use Department and previously ratified by the County Board are ratified and confirmed as on file in the office of the County Clerk.

(Res. No. 192-12/82, 1-18-83)

Secs. 14-183 - 14-250 Reserved.

ARTICLE IV. RECYCLING AND SOLID WASTE

Division 1. Recycling

Sec. 14-251 Purpose.

The purpose of this article is to promote recycling, composting, and resource recovery through the administration of an effective recycling program for the Waukesha County responsible unit areas. The administration of an effective recycling program will extend the useful life of landfills, conserve natural resources, salvage materials for reprocessing, conserve energy, and improve the environment by lessening landfill deposits, as recognized in Chapter 287 Wisconsin Statutes, and Chapter NR 544, Wisconsin Administrative Code.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-252 Statutory authority.

This article is adopted as authorized and required by section 287.09 and section 287.11 Wisconsin Statutes, and Chapter NR 544, Wisconsin Administrative Code.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-253 Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, articles or permits previously adopted or issued pursuant to law. However, whenever this article is more restrictive or imposes higher standards or requirements, this article shall govern.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-254 Interpretation.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this article may be inconsistent or may conflict with one another, the more restrictive terms or requirements shall apply. Where a provision of his article is required by state statute or by a state administrative regulation, and where the article provision is unclear, the provision shall be interpreted in light of the state statute or state administrative regulation in effect on the date of the adoption of this article [Ord. No. 149-91, adopted December 13, 1994], or in effect on the date of the most recent text amendment to this article.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-256 Severability.

Should any portion of this article be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-257 Applicability.

(a) This article shall be in effect and enforced in those towns, villages and cities in Waukesha County for which Waukesha County is the responsible unit pursuant to section 287.09(1), Wisconsin Statutes.

(b) This article shall not apply to or be enforced in those towns, villages and cities in Waukesha County which retain their own responsible unit status pursuant to section 287.09(1), Wisconsin Statutes.

(c) Nothing in this article shall prohibit a member municipality from adopting this article as its own and enforcing that adopted article.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-258 Administration.

This article shall be administered and enforced by Waukesha County.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-259 Definitions.

For the purposes of this article, the following words, terms and phrases have the following meanings,

except as otherwise specially provided elsewhere in this article:

1. *Bi-metal container* means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

2. *Container board* means corrugated paperboard used in the manufacture of shipping containers and related products.

3. *Foam polystyrene packaging* means packaging made primarily from foam polystyrene that satisfies one (1) of the following criteria:

   A. Is designed for serving food or beverages.

   B. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

   C. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

4. *Hauler* means a person who is authorized to remove solid waste or recyclable materials from the generating source.

5. *HDPE* means high density polyethylene, currently labeled by the Society of the Plastics Industry, Inc. code as #2, or as amended by future federal or state rules or regulations.

6. *LDPE* means low density polyethylene, currently labeled by the Society of the Plastics Industry, Inc. code as #4, or as amended by future federal or state rules or regulations.

7. *Magazine* means magazines and other materials printed on similar paper.

8. *Major appliance* means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, oven, refrigerator, stove, furnace, boiler, dehumidifier or water heater.

9. *Member municipality* means any town, village or city for which Waukesha County is the "responsible unit" under section 287.09(1), Wisconsin Statutes.

10. *Multiple-family dwelling* means a structure containing five (5) or more residential units, including those which are occupied seasonally.

11. *Newspaper* means a newspaper and other materials printed on newsprint.

12. *Non-residential facilities* and properties means commercial, retail, industrial, institutional and governmental facilities and properties which are not used for residential purposes. This term does not include multiple-family dwellings.

13. *Office paper* means high grade printing and writing paper from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as highgrade. This term does not include industrial

process waste.

14. *Other resins or multiple resins* means plastic resins currently labeled by the Society of the Plastics industry, Inc. code as #7, or as amended by future federal or state rules or regulations.

15. *Person* includes any individual, corporation, partnership, association, local governmental unit as defined in section 66.0131(1)(a), Wisconsin Statutes, state agency or authority, or federal agency.

16. *PETE* means polyethylene terephthalate, currently labeled by the Society of the Plastics Industry, Inc. code as #1, or as amended by future federal or state rules or regulations.

17. *Plastic container* means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

18. *Postconsumer waste* means solid waste other than solid waste generated in the production of goods, hazardous waste as defined in section 291.01, Wisconsin Statutes, waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste.

19. *PP* means polypropylene, currently labeled by the Society of the Plastics Industry, Inc. code as #5, or as amended by future federal or state rules or regulations.

20. *PS* means polystyrene, currently labeled by the Society of the Plastics Industry, Inc. code as #6, or as amended by future federal or state rules or regulations.

21. *PVC* means polyvinyl chloride, currently labeled by the Society of the Plastics Industry, Inc. code as #3, or as amended by future federal or state rules or regulations.

22. *Recyclable material* includes lead acid batteries, major appliances, waste oil, yard waste, aluminum containers, corrugated paper or other container board, foam polystyrene packaging, glass containers, magazines, newspaper, office paper, rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins, steel containers, waste tires, and bimetal containers

23. *Responsible unit* has the meaning specified in section 287.09(1), Wisconsin Statutes

24. *Solid waste* has the meaning specified in section 289.01(33), Wisconsin Statutes.

25. *Solid waste facility* has the meaning specified in section 289.01(35), Wisconsin Statutes.

26. *Solid waste treatment* means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste, including incineration.

27. *Waste tire* means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

28. *Yard waste* means leaves, grass clippings, yard and garden debris and brush, including clean, woody vegetative material no greater than six (6) inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-260 Separation of recyclable materials.

Separation requirements. Occupants of single-family residences, two (2) to four (4) unit residences, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste for recycling:

1. Lead acid batteries;
2. Major appliances;
3. Waste oil;
4. Yard waste;
5. Aluminum containers;
6. Bi-metal containers;
7. Corrugated paper or other container board;
8. Foam polystyrene packaging;
9. Glass containers;
10. Magazines;
11. Newspaper;
12. Office paper;
13. Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins;
14. Steel containers;
15. Waste tires.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-261 Separation requirements exempted.

The separation requirements of Section 14-260 do not apply to the following:

1. Occupants of single-family residences, two to four-unit residences, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in section 14-260 from solid waste in as pure a form as is technically feasible.

2. Solid waste which is burned as a supplemental fuel at a facility if less than thirty (30) percent of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

3. A recyclable material specified in section 14-260(5) through (15) for which a variance has been granted by the Department of Natural Resources under section 287.11(2m), Wisconsin Statutes, or section NR 544.14, Wisconsin Administration Code.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-262 Care of separated recyclable materials.

To the greatest extent practicable, the recyclable materials separated for collection in accordance with Section 14-260 shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions, except when materials are set out for collection. Separated recyclable materials shall be handled in accordance with section NR 544.05 [Wisconsin Administrative Code].

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-263 Management of lead acid batteries, major appliances, waste oil and yard waste.

Occupants of single-family residences, two- to four-unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

1. Lead acid batteries shall not be landfilled or incinerated, in accordance with section 287.07 Wisconsin Statutes. Lead acid batteries may be managed through battery retailers and may also be collected for recycling by local municipal drop-off sites, private haulers, scrap dealers or landfill operators.

2. Major appliances shall not be landfilled or incinerated, in accordance with section 287.07, Wisconsin Statutes. Major appliances may be delivered to a scrap dealer/recycler for proper processing.

3. Waste oil shall not be landfilled nor burned without energy recovery, in accordance with section 287.07, Wisconsin Statutes. Waste oil shall be delivered to a municipal or private waste oil collection site and shall be free of materials which would cause the waste oil to be nonrecyclable.

4. Yard waste shall not be landfilled or burned without energy recovery in a solid waste facility, in accordance with section 287.07, Wisconsin Statutes except as authorized by the Wisconsin Department of Natural Resources at a licensed wood-burning facility. Yard waste may be delivered to a compost facility, municipal collection site, or managed through home composting, or source reduction or other methods as permitted by state statutes or local ordinance.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-264 Collection and delivery of recyclable materials.

(a) Except as provided in subsection (b), and unless otherwise directed in writing by Waukesha County or unless granted a variance by the Wisconsin Department of Natural Resources, a member municipality shall:

1. Collect materials listed in section 14-260(5) through (15) from single-family residences and two- to four-unit residences, and do so in a manner consistent with this article; or

2. Require haulers to collect materials listed in section 14-260(5) through (15) from single family residences and two- to four-unit residences, and to do so in a manner consistent with this article.

(b) Unless otherwise directed in writing by Waukesha County or unless granted a variance by the Wisconsin Department of Natural Resources, a member municipality with a population of five thousand (5,000) or greater which does not collect solid waste or contract for residential solid waste collection and disposal in that municipality shall provide collection service for materials listed under section 14-260(5) through (15) in a manner consistent with this article.

(c) Member municipalities shall require that haulers provide reports of solid waste and recyclables collected, at a minimum of two (2) times each year, to the member municipality and to Waukesha County.

(d) Haulers providing private solid waste collection service directly to residents, multiple- family dwellings and non-residential facilities and properties shall provide for the collection of materials listed under section 14-260(5) through (15), unless otherwise directed in writing by Waukesha County or granted a variance by the Wisconsin Department of Natural Resources.

(e) Unless otherwise directed in writing by Waukesha County, recyclable materials collected in member municipalities under Subsections (a), (b) and (d) above shall be delivered to a drop off site approved by Waukesha County.

(Ord. No. 149-91, § 1, 12-13-94; Ord. No. 168-119, 04/08/14.)

Sec. 14-265 Responsibilities of owners of multiple-family dwellings.

(a) Owners of multiple-family dwellings shall do all of the following to cause the materials specified in Section 14-260(5) through (15) to be recycled:

1. Provide adequate, separate containers for the materials.

2. Provide for the collection of the separated materials and the delivery of the separated materials to a recycling facility.

3. At the time of renting or leasing the unit, and at least twice each year thereafter, notify tenants in writing about the established recycling program, reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(b) The requirements specified in subsection (a) do not apply to the owners of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in

Section 14-260(5) through (15) from solid waste in as pure a form as is technically feasible.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-266 Responsibilities of owners of nonresidential facilities and properties.

(a) Owners of non-residential facilities and properties shall do all of the following to recycle the materials specified in Section 14-260(5) through (15):

1. Provide adequate, separate containers for the materials.

2. Provide for the collection of the separated materials and the delivery of the separated materials to a recycling facility.

3. At the time of renting or leasing the unit, and at least twice each year thereafter, notify in writing all users, tenants and occupants about the established recycling program, reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(b) The requirements specified in subsection (a) do not apply to the owners or designated agents of nonresidential facilities and properties if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section 14-260(5) through (15) from solid waste in as pure a form as is technically feasible.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-267 Prohibitions on disposal of recyclable materials separated for recycling.

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in Section 14-260(5) through (15) which have been separated for recycling, except that waste tires may be burned with energy recovery in a solid waste treatment facility.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-268 Miscellaneous provisions.

(a) *Waukesha County purchasing of recycled content, multiple-use, durable materials, equipment and supplies.* Waukesha County shall, to the extent financially practicable, make purchasing decisions to maximize the purchasing of products made from recycled and recovered materials. Purchases shall include twenty-five (25) percent recycled content of all paper purchases in 1994 and forty (40) percent content of all paper purchases by 1995.

Waukesha County shall, to the extent financially practicable, consider recyclability and recycled content when awarding contracts for equipment, construction materials and supplies. The county wishes to discourage the purchase of single-use disposable products and to encourage the purchase of multiple-use, durable products which meet specifications.

(b) *Unlawful removal of recyclables*. Recyclable materials that have been deposited or placed at the curb or in a container adjacent to a home or multiple-family dwelling or nonresidential building for the purpose of collection for recycling shall not be collected or removed without permission.

(c) *Dumping provisions.* It shall be unlawful for any person to dispose of or dump solid waste in any street, alley or other place, or to place it in any receptacle, without the owner's consent.

(d) *Volume-based fees.* By January 1, 1997, the county shall require member municipalities to institute a system of volume-based solid waste fees to generate revenue equal to the municipalities' costs for solid waste collection and disposal other than those reimbursed by the State unless the member municipalities recycle at least twenty-five (25) percent of the solid waste collected by volume or by weight, in accordance with section 287.11(2)(dm), Wisconsin Statutes.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-269 Enforcement.

(a) For the purpose of ascertaining and ensuring compliance with the provisions of this article but for no other purpose, any authorized office, employee or representative of Waukesha County may inspect materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties, and any records relating to recycling activities, which shall be kept confidential to the extent permitted by law. No person may refuse access to any authorized officer, employee or authorized representative of Waukesha County who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

(b) A citation may be issued for a violation of this article. It shall be the duty of the county to issue citations for violations of this article. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

(c) A citation which is issued for a violation of this article shall conform to the requirements of section 66.0113(1), Wisconsin Statutes, and shall contain all information required by that statute, as it is from time to time amended.

(d) Any person or entity who violates any provision of this article shall be required to pay a forfeiture of not less than fifty dollars ($50.00) for the first violation, not less than one hundred dollars ($100.00) for the second violation, and not more than five hundred dollars ($500.00) for each subsequent violation. Each day that a violation of any provision of this article occurs or exists shall constitute a separate offense.

(e) The provisions of section 66.0113(3), Wisconsin Statutes, as it is from time to time amended, are adopted in their entirety and incorporated and made a part of this article.

(f) The cash deposit schedule for violations of this article shall be as follows:

1. Twenty-five dollars ($25.00) for the violation;

2. The penalty assessment imposed by section 757.05, Wisconsin Statutes; and
3. The jail assessment imposed by section 302.46, Wisconsin Statutes. Cash deposits shall be made to the clerk of courts, and receipts shall be given for cash deposits. Funds shall be deposited in an appropriate account to be used for solid waste management purposes.

(g) The issuance of a citation shall not preclude Waukesha County from using any other enforcement method to enforce any provision of this article.

(h) Nothing in this article shall prohibit Waukesha County from applying to a court of competent jurisdiction for a temporary or permanent injunction, restraining any person from violating any term, condition or covenant of this article.

(i) No provision of this article shall be enforced by Waukesha County, whether by citation or by any other method, if an exemption or variance regarding the subject of the provision has been granted by state statute or by state administrative rule or regulation.

(Ord. No. 149-91, § 1, 12-13-94)

Secs. 14-270 - 14-280 Reserved.

Division 2. Landfill Siting and Regulation

Sec. 14-281 Intent.

This article is intended to regulate the siting of landfills as that term is defined in section 289.01, Wisconsin Statutes. This article is also intended to comply with the directives of section 289.33, Wisconsin Statutes with respect to the negotiation and arbitration process, and to re quire that local concerns, as set forth in section 289.33, Wisconsin Statutes, be fully addressed. It is also the intent of this article to:

1. Establish procedures pertaining to the landfill siting process within the county.

2. Appropriate and levy sufficient fees to cover the county's involvement in the siting process.

3. Ensure that any sited landfill is considered in, and works as a supporting part of, the county solid waste management plan. This includes financial support for and/or physical accommodation of programs to reduce, reuse, recycle, screen or otherwise divert materials from landfill disposal.

4. Control the disposition of fees received under this article by the county.

5. Preserve landfill capacity of solid waste facilities in the county for future use and to ensure that county municipalities, residents and businesses shall have assurances as to the duration of landfill operations and the availability of disposal at landfills located within

the county.

6. Require orderly land use development pertaining to the siting of landfills.

7. Ensure that final negotiated agreements under section 289.33(9), Wisconsin Statutes shall contain sufficient provisions to afford local residents protection against adverse impacts from the siting of landfills in the county.

8. Ensure that the costs of disposal are borne by the generators of solid waste to the greatest degree practical.

(Ord. No. 147-152, § 1, 3-23-93)

Sec. 14-282 Local approval.

This article shall constitute a local approval, as that term is defined under section 289.33, Wisconsin Statutes. Amendments of this article shall not affect the article's status as a local approval.

(Ord. No. 147-152, § 1, 3-23-93)

Sec. 14-283 Definitions.

In this article, terms shall have the following meanings:

Applicant means any person, corporation, or entity seeking to locate a landfill or an expansion thereof for which the county would be an affected municipality under section 289.01, Wisconsin Statutes.

County means Waukesha County.

County representative means the county's authorized boards, committees, subcommittees, elected officials, employees or other individuals who may be appointed to represent the county.

Landfill means a solid waste facility for solid waste disposal, as that term is defined in section 289.01, Wisconsin Statutes, and includes expansions of existing facilities which are currently licensed as of the effective date of Ordinance 147-152. A landfill does not include incinerators or transfer stations.

Negotiating committee means the local committee appointed pursuant to section 289.01, Wisconsin Statutes.

(Ord. No. 147-152, § 1, 3-23-93)

Note - Definitions of sections 289.01 and 289.33, Wisconsin Statutes, as amended from time to time, are incorporated herein by reference.

Secs. 14-284 - 14-289 Reserved.

Division 3. Permits

Sec. 14-290 Permit-Application, generally.

An applicant shall comply with the provisions of this division and obtain a permit for the siting of any landfill for which the county is an affected municipality under section 289.01, Wisconsin Statutes. The application for a permit shall be submitted to the county clerk and the department. One (1) copy of the application shall be provided to the county clerk for public review purposes. The applicant shall provide as many copies to the department as are required at the time of application. At the option of the department director, or his designee, the application submitted to the department may be submitted in electronic format.

(Ord. No. 147-152, §1, 3-23-93)

Sec. 14-291 Same-Application requirements.

The application shall be signed by the applicant and shall be accompanied by information which shall include, but not be limited to, the following:

1. *Cover letter.* A signed cover letter from the applicant stating the project title, the name, address, and telephone number of the primary contacts for the project, including the facility owner and any consultants, present property owners and all others with a financial or proprietary interest in the property, the proposed facility owner and operator, and the name, address, and telephone number of the primary person responsible for ensuring the completeness and accuracy of the application.

2. *Initial site report.* The application shall include the initial site report submitted to the Department of Natural Resources under section 289.21, Wisconsin Statutes.

3. *Feasibility report.* The application shall include an outline of the feasibility report required by section 289.23, Wisconsin Statutes, intended to be submitted to the Department of Natural Resources.

4. *Table of contents.* The application shall have a table which specifically references, by page number or other identifier, the location of the following information within the initial site report or other sections of the application:

    A. Geographical areas that may affect or be affected by the proposed facility.
    B. Zoning.
    C. Other landfills owned or operated by applicant.
    D. Boundaries of facility.
    E. Topographic surveys.
    F. Stream, road, railroad, utility line, and pipeline locations.
    G. Previous excavations on site.
    H. Governmental permits.
    I. Applications for local approvals.
    J. Surface water and hydrological features.

5. *Application specifications.* The application submitted under this division shall specify all information required by the solid waste manager, but at minimum shall include the following:

A. All areas that may affect or be affected by the proposed facility. At a minimum, this will be the area within one-half (½) mile of the limits of filling, for facilities with a design capacity of fifty thousand (50,000) cubic yards or less and areas within one (1) mile for facilities with a design capacity greater than fifty thousand (50,000) cubic yards. The information shall be supplemented with maps and with the names and addresses of all property owners within two thousand five hundred (2,500) feet of the property boundaries of the proposed site. Also included shall be a certified survey and the legal description of the proposed site.

B. A discussion of the land-use zoning of the site and all properties located within two thousand five hundred (2,500) feet of the site. This discussion will specifically include areas where zoning variances will be required, where agricultural impact statements may be required or where floodplain, shoreland, or wetland zoning is designated.

C. A statement of all other landfills which the applicant or its principal operates or in which the applicant or its principal has an interest located within one hundred fifty (150) miles of the proposed site.

D. The boundaries of the proposed facility, external boundaries of the property, and all properties lying within two thousand five hundred (2,500) feet of the external boundaries of the applicant's property. (If not owned, the foregoing shall apply to leased property or property which is the subject of the application.)

E. A detailed topographic survey of the proposed facility and all areas within one thousand five hundred (1,500) feet from the proposed limits of filling. The minimum scale shall be one (1) inch =two hundred (200) feet with a maximum two-foot contour interval.

F. Location and names of all streams, roads, railroads, utility lines, and pipelines on the site or within one thousand two hundred (1,200) feet thereof.

G. Boundaries and elevations of previous excavations on the site, if any.

H. A listing of all existing and required governmental permits affecting the site.

I. A list of all applications for local approvals submitted under section 289.22, Wisconsin Statutes as well as the dates applications were served.

J. A description of the surface water drainage patterns and significant hydrological features such as surface waters, springs, surface water drainage basins, divides and wetlands, and a proposed onsite water management plan and an erosion control plan.

6. *Operation plan*. The applicant shall submit an outline for a plan of operation required

under section 289.30, Wisconsin Statutes, including information pertaining to the type and estimated volume of materials to be disposed, municipalities and industries to be served, a timetable for the commencement of operations, proposed facility life, duration and cessation of disposal operations, anticipated cover frequency, primary travel routes to be used to transport construction materials and waste, and a general statement as to methods that the applicant will utilize pertaining to minimizing adverse impacts of neighboring residences and businesses. Also included with the operation plan should be a site plan drawn to a scale no less than one (1) inch = two hundred (200) feet.

7. *Closure plan.* The applicant shall submit an outline describing the proposed type of final closure for the site, its proposed post closure uses of the site and a statement as to its ability to provide closure, long term care, and corrective actions, required under section 289.47, Wisconsin Statutes. Also included with the closure plan should be a site plan drawn to a scale no less than one (1) inch = two hundred (200) feet.

8. *Other information.* The county may require such other information as may be necessary to determine the nature of the landfill, the impacts on the surrounding area, and other impacts to the county. The county may waive portions of the specified information if it is satisfied that the same is not relevant or necessary for a full and proper evaluation of the application.

(Ord. No. 147-152, § 1, 3-23-93)

Sec. 14-292 Same-Application fee.

With the application, the applicant shall submit a one hundred thousand dollar ($100,000.00) fee. This fee shall be used by the county to cover all costs and expenses incurred by the county associated with the siting process. Any portion of the fee not spent on costs and expenses associated with the siting process shall be reimbursed to the applicant. The costs and expenses shall include, but not be limited to, negotiating expenses and the county's review of the application. If the landfill intends to receive less than fifty (50) tons of waste per day, the applicant may petition for the payment of a filing fee in a lesser amount. A county representative shall review the petition and shall then conduct a review meeting with the applicant. In any event, the applicant for a permit shall pay, upon request by the county, any additional fees necessary to meet the county's actual expenses associated with the application.

(Ord. No. 147-152, § 1, 3-23-93)

Sec. 14-293 Same-Requirements.

A permit for the siting of a landfill in the county shall include the following minimum requirements, which shall be adopted and incorporated into a final negotiated agreement, as that term is defined in section 289.33, Wisconsin Statutes, between the applicant and the county:

1. An annual permit fee of one hundred thousand dollars ($100,000.00) or a sum equal to one dollar ($1.00) for each ton of solid waste disposed at the landfill, whichever is greater. The sum of one hundred thousand dollars ($100,000.00) shall be due on or before

the first day that waste is received at the site and shall be paid each anniversary date thereafter until final closure. Within thirty (30) days after such anniversary date, the applicant shall supply the county with information setting forth the amount of waste disposed during the previous calendar year, and shall pay the county an additional sum, if appropriate, to meet the fee requirements set forth above.

2. An indemnification, hold harmless, and assumption of defense agreement to hold the county and the negotiating committee harmless from any liability pertaining to the issuance of a permit or in any way relating to the construction, operation, closure and post-closure activities of the land fill. Such agreement shall include an obligation to indemnify the county and negotiating committee from any loss or action or claim pertaining to the siting, operation, construction, closure or post-closure activities of the landfill.

3. A minimum guaranteed length of time during which county residents and businesses shall have access to the site.

4. Cooperation with any committee which may be appointed by the county executive to monitor the construction, operation, and closure, as well as post-closure activities, of the permittee.

5. The filing of a fifty thousand dollar ($50,000.00) bond or irrevocable letter of credit with the county to protect against road damage during the construction, operation, or closure of the proposed facility.

6. The establishment of a property value protection plan to protect residents located within two thousand five hundred (2,500) feet of the site from property value loss occasioned by the siting of the solid waste facility.

7. Provisions for financial or physical support of, and interaction with, waste diversion and waste screening programs such as a "household hazardous" program under which hazardous household waste would be received at the site or disposed of by the applicant.

8. Provisions to protect local residents from excessive noise, road, insects, odors, dust, dirt, and debris, and such other protections for local residents as may be required by the department.

9. An amount of not less than three million dollars ($3,000,000.00) in a form acceptable to the county sufficient to show the financial viability of the applicant to construct and operate the site, as well as undertake its responsibilities as set forth under section 289.41, Wisconsin Statutes.

(Ord. No. 147-152, § 1, 3-23-93)

Sec. 14-294 Landfill fee reserve.

All fees and compensation received under this article or under a negotiated landfill agreement shall be accounted for. All revenues shall be reserved and investment income on balances shall be similarly reserved. Use of these funds by county board appropriation shall be restricted to the following purposes:

1. Forty (40) percent of monies shall be used for the following purposes:

   A. Participation in the negotiation and arbitration process.

   B. Solid waste management board expenses and expenses of the standing committee or other county representatives monitoring solid waste facilities.

   C. Resource recovery, recycling or composting programs.

   D. Solid waste reduction and public education programs.

   E. Waste screening or segregation programs such as the "household hazardous" programs which divert potentially hazardous or inappropriate materials from landfill disposal.

   F. Legal fees associated with actions pertaining to closed, existing or future landfills.

   G. Development and implementation of county solid waste management plans or a county integrated solid waste management system.

2. The balance of the monies shall be used for solid waste management purposes as the county board directs.

(Ord. No. 147-152, § 1, 3-23-93)

Sec. 14-295 Approval and denial process.

(a) *Review process.* Reviews of applications for completeness and requests for additional information shall be made by the department. The department shall provide written notice to the applicant as to whether the application is determined complete and if not complete, the area(s) needing completion.

(b) *Scheduling of public hearing.* After the determination that an application is complete, the department shall schedule a public hearing on the application. The hearing shall be scheduled within forty-five (45) days of the determination that the application is complete. Such hearing may coincide with hearings by the Wisconsin Department of Natural Resources or other agencies holding hearings on the same proposed landfill site.

(c) *Notice of hearing.* Notice of the public hearing shall be published as a Class 2 notice under Chapter 985, Wisconsin Statutes. In addition, notice of the public hearing shall be mailed to the last known address of all owners of property within two thousand five hundred (2,500) feet of the subject property. Failure to comply with this notice procedure shall not invalidate any action taken by the county.

(d) *Public hearing.* At the public hearing on the application, the county shall hear and receive any evidence or testimony presented by the applicant or their authorized agents. At the conclusion of the applicant's presentation, the county shall hear any public comments from those in support of and from those in opposition to the application. Such comments or testimony shall be considered in establishing

conditions for the permit beyond the minimum required by this division. The applicant shall be given an opportunity to respond to any comments, evidence, or recommendations.

(e) *Standards for evaluation and approval*. The county shall review all aspects of the application as it relates to potential impacts on nearby residents, the local business community or the county, and to otherwise comply with the intent and purpose of this article.

(f) *Approval and denial.* Within one hundred twenty (120) days following the hearing, the county representatives reviewing the application shall make a recommendation to the county board whether to grant or deny the application based upon specific findings and conclusions. The county board shall act on such recommendations within thirty (30) days of the receipt of the recommendation.

(g) *Conditions for approval.* The approval of an application may be conditioned upon the applicant meeting certain operational, closure, and restoration provisions and standards. In addition, the approval shall be specifically conditioned upon the permit being incorporated into the final negotiated agreement as set forth under section 289.33, Wisconsin Statutes.

(h) *Permit numbers.* In the event that the applicant meets the requirements of this division and a permit is issued by the county, the county clerk shall assign a permit number to the landfill. The county clerk shall maintain copies of all permit applications and permits granted. The permit number shall be used on all future correspondence and documents pertaining to the permitted landfill site.

(i) *Non-compliance.* If, at any time, the permittee fails to meet the financial requirements or other conditions of the permit and negotiated agreement, a county representative shall notify the permittee that it has ninety (90) days in which to come into compliance. If after ninety (90) days the permittee remains in con-compliance, a meeting shall be held between the county and the permittee at which time the county may rescind the permit.

(Ord. No. 147-152, § 1, 3-23-93)

Sec. 14-296 Transfer or sale of permit.

A permit granted pursuant to this division shall not be transferred or sold by the permittee without prior written approval from the county board.

(Ord. No. 147-152, § 1, 3-23-93)

Secs. 14-297 - 14-304 Reserved.

ARTICLES V AND VI. RESERVED.

ARTICLE VII. LAND AND WATER CONSERVATION

Secs. 14-305 - 14-325 Reserved.

ARTICLE VIII. STORM WATER MANAGEMENT AND EROSION CONTROL

Sec. 14-326 Authority for Ordinance.

This ordinance is adopted by the County Board under the authority granted by sections 59.693 and 92.07(15) and Chapter 236 Wisconsin Statutes.

(Ord. No. 159-120, 3/22/05)

Sec. 14-327 Findings.

The Waukesha County Board finds that uncontrolled storm water runoff and construction site erosion from land development and land disturbing activity can have significant adverse impacts upon local water resources and the health, safety and general welfare of the community, and diminish the public enjoyment and use of natural resources. Specifically, uncontrolled soil erosion and storm water runoff can:

1. Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperatures;

2. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants;

3. Alter wetland communities by changing wetland hydrology and increasing pollutant loads;

4. Reduce the quality of groundwater by increasing pollutant loading;

5. Threaten public health, safety, property, and general welfare by increasing runoff volumes and peak flood flows and overburdening storm sewers, drainage ways and other storm drainage systems;

6. Undermine floodplain management efforts by increasing the incidence and levels of flooding; and

7. Generate airborne particulate concentrations that are health threatening or may cause other damage to property or the environment.

(Ord. No. 159-120, 3/22/05)

Sec. 14-328 Purpose and Intent.

(a) The general purpose of this ordinance is to establish regulatory requirements for land development and land disturbing activities aimed to minimize the threats to public health, safety, welfare, and the natural resources of Waukesha County from construction site erosion and post-construction storm water runoff. Specific purposes are to:

1. Further the maintenance of safe and healthful conditions.

2. Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; establish erosion control and storm water standards for building sites, placement of structures and land uses; and preserve ground cover and scenic beauty.

3. Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger property.

(b) Through a single storm water permit process, this ordinance is intended to meet the current construction site erosion control and post-construction storm water management regulatory requirements of Subchapter III of both NR 151 and NR 216 Wis. Admin. Code on the effective date of this ordinance.

(c) Provisions have also been incorporated to coordinate the storm water permit requirements of this ordinance with other county and town zoning and land division regulations.

(d) The County Board finds that the preferred method of addressing post-construction storm water runoff from land development activities is through the preparation and implementation of regional storm water management plans that cover hydrologic units, such as watersheds or subwatersheds. Accordingly, provisions have been incorporated into this ordinance to allow for the implementation of a regional storm water management plan in lieu of complying with certain on-site storm water management requirements.

(Ord. No. 159-120, 3/22/05)

Sec. 14-329 Reserved.

Sec. 14-330 General Administration

The Department of Parks and Land Use – Land Resources Division ("LRD") is designated to administer and enforce this ordinance.

(Ord. No. 159-120, 3/22/05)

Sec. 14-331 Jurisdiction

(a) *Jurisdictional Boundaries.* This ordinance applies to all unincorporated lands within the jurisdictional boundaries of Waukesha County, unless a town board:

1. Adopts an ordinance that complies with the minimum standards established by the Wisconsin Department of Natural Resources and is at least as restrictive as this ordinance, as determined by the LRD; and
2. Provides reasonable notice to the LRD of the effective date of the town ordinance and the enforcement contract(s), if not the LRD.

(b) *Newly Annexed Areas.* If any area within the jurisdiction described in (a), above was annexed by a city or village on any date after May 5, 1992, the provisions of this ordinance apply and shall be

enforced after annexation by the annexing city or village unless any of the following occurs:

1. The city or village enacts, administers and enforces an ordinance for the annexed area that complies with the minimum standards established by the Wisconsin Department of Natural resources and is at least as restrictive as this ordinance, as determined by the LRD; or
2. After annexation, the city or village requests that this ordinance, as it applies to the annexed area, continues to be in effect and enforced by the LRD and the LRD agrees to enforce the ordinance.

(Ord. No. 159-120, 3/22/05)

Sec. 14-332 Definitions.

1. *Applicable review authorities* means the Town Planning Commission, the County Zoning Administrator or the County Park and Planning Commission, depending on the type of project and its location.

2. *Applicant* means any person or entity holding fee title to the property or their representative. The applicant shall become the permit holder" once a permit is issued. The applicant shall sign the initial permit application form in accordance with subs. A through B below, after which the applicant may provide the LRD written authorization for others to serve as the applicant's representative:

   A. In the case of a corporation, by a principal executive officer of at least the level of vice president or by the officer's authorized representative having overall responsibility for the operation of the site for which a permit is sought.
   B. In the case of a limited liability company, by a member or manager.
   C. In the case of a partnership, by the general partner.
   D. In the case of a sole proprietorship, by the proprietor.
   E. For a unit of government, by a principal executive officer, ranking elected official or other duly authorized representative.

3. *Best management practice* (of BMP) means structural and non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or other pollutants carried in runoff.

4. *Common plan of development* means all lands included within the boundary of a certified survey map or subdivision plat created for the purpose of development or sale of property where integrated, multiple, separate and distinct land developing activity may take place at different times by future owners.

5. *County mapping standards* means that the maps are drawn to national map accuracy standards using the Wisconsin State Plane Coordinate System, Wisconsin South Zone, North American Datum 1927 (NAD27) and National Geodetic Vertical Datum of 1929 (NGVD-29)..

6. *County Zoning Administrator* means the Director of the Waukesha County Department of Parks and Land Use or his/her designee.

7. *County Park and Planning Commission* means the zoning agency of Waukesha County as defined under s. 59.69(2)(a) Wisconsin Statutes

8. *Design storm* means a hypothetical depth of rainfall that would occur for the stated return frequency (i.e. once every 2 years or 10 years), duration (i.e. 24-hours) and timing of distribution (i.e. type II). All values are based on the historical rainfall records for the area. Design storms used in this ordinance are summarized in sec. 14-342(a)

9. *Dewatering* means the removal of trapped water from a construction site to allow land development or utility installation activities to occur.

10. *Erosion* means the process of detachment, transport and deposition of soil, sediment or rock fragments by action of water, wind, ice or gravity.

11. *Effective infiltration area* means the area of the infiltration system that is used exclusively to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

12. *Environmental corridor* (primary and secondary) means a composite of the best individual elements of the natural resource base including surface water, streams, and rivers and their associated floodlands and shorelands; woodlands, wetlands and wildlife habitat; areas of ground water discharge and recharge; organic soils, rugged terrain and high relief topography; and significant geological formations and physiographic features. A description of the process of defining and delineating Environmental Corridors is set forth in the Southeastern Wisconsin Regional Planning Commission's Technical Record, Volume 4, No. 2 and is incorporated herein by reference.

13. *Environmentally sensitive area* means any area that, due to the natural resources present or the lack of filtering capacity, is more susceptible to the adverse impacts of sediment and other pollutants associated with erosion and urban runoff. Examples include environmental corridors, direct hydrologic connections to lakes, streams, wetlands, groundwater or other water resources, or very coarse or shallow soils above groundwater or bedrock.

14. *Filtering layer* means soil that has at least a 3-foot deep layer with at least 20% that passes through a #200 sieve (fines); or at least a 5-foot deep layer with at least 10% that passes through a #200 sieve (fines); or another medium exists with an equivalent level of protection, as determined by the LRD.

15. *Final plat* means a map of a proposed condominium or subdivision to be recorded with the Waukesha County Register of Deeds pursuant Wisconsin Statutes.

16. *GIS system of Waukesha County* means the computerized mapping system that Waukesha County makes available to the general public over the Internet.

17. *Groundwater recharge areas* means lands identified in a document published by the Southeastern Wisconsin Regional Planning Commission as groundwater recharge areas; or where, prior to any land disturbing or land development activity, precipitation or

runoff could only leave the area by infiltrating the ground, thereby recharging the groundwater.

18. *Illicit connection* means any drain or conveyance, whether on the surface or subsurface, which allows an illegal non-storm water discharge to enter the storm drain system, including but not limited to: sewage, process wastewater and wash water, any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this ordinance.

19. *Impervious surface* means an area that releases all or a large portion of the precipitation that falls on it, except for frozen soil. Conventional rooftops and asphalt or concrete sidewalks, driveways, parking lots and streets are typical examples of impervious surfaces. For purposes of this ordinance, typical gravel driveways and other examples listed shall be considered impervious unless specifically designed to encourage infiltration or storage of runoff.

20. *Impracticable* means that complying with a specific requirement would cause undue economic hardship and that special conditions exist that are beyond the control of the applicant and would prevent compliance.

21. *In-fill development* means land development that occurs where there was no previous land development and is surrounded by other existing land development;

22. *Infiltration* means the entry of precipitation or runoff into or through the soil.

23. *Infiltration system(s)* means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

24. *Karst features* means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

25. *Land development activity or land development* means any construction related activity that may ultimately result in the addition of impervious surfaces, such as the construction of buildings, roads, parking lots and other structures.

26. *Land disturbing activity* (or disturbance) means any man-made alteration of the land surface that may resulting in a change in the topography or existing vegetative or non-vegetative soil cover, or may expose soil and lead to an increase in soil erosion and movement of sediment. Land disturbing activity includes clearing and grubbing for future land development, excavating, filling, grading, building construction or demolition, and pit trench dewatering.

27. *LRD* means the Land Resources Division of the Waukesha County Department of Parks and Land Use. The LRD Manager supervises the daily activities of the division,

including the administration of this ordinance.

28. *Maximum Extent Practicable* or MEP means a level of implementing best management practices to achieve a performance standard specified in this ordinance that has been approved by the LRD. In determining when MEP has been achieved, the LRD shall take into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

29. *Navigable* has the meaning given in the Waukesha County Shoreland and Floodland Protection Ordinance.

30. *Nonmetallic mining* has the meaning specified under s. 295.11(3) Wisconsin Statutes

31. *Off-site BMP* means best management practice(s) that are located outside of the boundaries of the site covered by a permit application. Off-site BMPs are usually installed as part of a regional storm water management plan approved by a local government.

32. *Ordinary high water mark* (OHWM) has the meaning given in s. NR115 Wis. Admin. Code.

33. *Planned land use* means the land use designated in the latest version of the Waukesha County land use plan.

34. *Plat* means a map of a proposed condominium or subdivision.

35. *Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water, as per s. 283.01(13) Wisconsin Statutes.

36. *Pollution* means man-made or man induced alteration of the chemical, physical, biological or radiological integrity of water, as per s. 283.01(14) Wisconsin Statutes.

37. *Preliminary plat* means a map showing the salient features of a proposed condominium or subdivision submitted to an approving authority for purposes of preliminary consideration.

38. *Preventive action limit* has the meaning given in s. NR 140.05(17), Wis. Admin. Code.

39. *Publicly funded* means a land development, such as a public road or municipal building that is being funded solely by a unit of government. It does not include new roads or other structures built with private funds, or a combination of public and private funds, and subsequently dedicated to a unit of government.

40. *Redevelopment* means land development that replaces previous land development of similar impervious conditions.

41. *Regional storm water management plan* means a planning document, adopted by a local unit of government, that coordinates storm water management activities for an entire drainage area or watershed, including future land development activities within the watershed. The plan may prescribe the use of BMPs for individual development sites and for selected points within the watershed to meet the goals and objectives of the plan.

42. *Regulatory agency* means a public agency that the LRD recognizes as having the legal authority to review and approve erosion control and storm water management plans and enforce their implementation, with requirements at least as restrictive as this ordinance.

43. *Responsible party* means any person or entity holding fee title to the property or acting as the owners representative, including any person, firm, corporation or other entity performing services, contracted, subcontracted or obligated by other agreement to design, implement, inspect, verify or maintain the BMPs and other approved elements of erosion control and storm water plans and permits under this ordinance.

44. *Road* as used in this ordinance, means any access drive that serves more than two (2) residences or businesses.

45. *Runoff* means water from rain, snow or ice melt, or dewatering that moves over the land surface via sheet or channelized flow.

46. *Shoreland* has the meaning given in the Waukesha County Shoreland and Floodland Protection Ordinance.

47. *Site* means the entire area included in the legal description of which the land disturbing or land development activity will occur.

48. *Stabilized* means that all land disturbing activities are completed and that a uniform, perennial vegetative cover has been established on at least 70% of the soil surface or other surfacing material is in place and the risk of further soil erosion is minimal, as determined by the LRD.

49. *Storm drainage system* means a publicly-owned facility by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

50. *Storm water* has the same meaning as the term runoff.

51. *Storm Water Advisory Committee* means a committee created and chaired by the LRD for the purpose of advising the LRD and the County Board on matters relating to the administration of this ordinance. At a minimum, the committee shall also contain representatives from the Land Use, Parks and Environment Committee of the County Board, the Wisconsin Department of Natural Resources, the Southeast Wisconsin

Regional Planning Commission, local municipal engineers and the Metropolitan Builders Association. All committee meetings shall be posted in accordance with the Wisconsin Open Meetings Law.

52. *Storm water BMP* means any best management practice that is designed to collect or manage the quantity or quality of storm water runoff for an indefinite time period and is incorporated into an approved storm water management plan to meet the requirements of this ordinance. This term is a subset of the term best management practice and distinct in that the BMPs require long-term maintenance. Some examples include, but are not limited to wet or dry detention basin, infiltration trench or basin, bio-retention basin, stilling basin, green roof, filter strip, artificial wetland, rain garden or any combination of these or other permanent storm water management practices, as determined by the LRD.

53. *Storm water permit* means a written authorization made by the LRD to the applicant to conduct land disturbing or land development activities in accordance with the requirements of this ordinance. A storm water permit regulates both construction site erosion and post-construction storm water runoff from a site.

54. *Subdivision* means a division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development that meets the subdivision definition criteria under s. 236.02(12) Wisconsin Statutes or a more restrictive definition adopted by a local unit of government.

55. *Technical standard* means a document that specifies design, predicted performance and operation and maintenance requirements for a material, device or method.

56. *Top of channel* means an edge, or point on the landscape, commencing landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

57. *Town planning commission* means the local town plan commission established under village powers pursuant to Chapter 61 Wisconsin Statutes, the Town Park Commission established pursuant to Chapter 60 Wisconsin Statutes, or any other agency created by the town board and authorized by statute to plan land use.

58. *Utility* means a wire, pipe, tube or other conduit designed to distribute or collect a product or service, including but not limited to electricity, natural gas, oil, telecommunications, drinking water, storm water, sewage, or any combination of these items.

59. *Warm season and wetland plantings* mean seed or plant stock native to a prairie or wetland setting. These types of plantings usually take a couple of years to get established and require diligent removal of invasive species during this time. Upon maturity, warm season plants generally have a deep root system, which enhances infiltration.

60. *Waters of the state* has the meaning given in s. 281.01 (18), Wisconsin Statutes

61. *Wetlands* means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions

62. *Woodland* means an area where a grouping of 10 or more trees exist that have trunk diameters of at least 4 inches at four feet above the ground surface. The boundaries of a woodland shall be defined by the canopy, commonly referred to as the drip line.

63. *Working day* means any day the office of the LRD is routinely and customarily open for business, and does not include Saturday, Sunday and any official county holidays.

(Ord. No. 159-120, 3/22/05)

Sec. 14-333 Applicability and Exemptions.

(a) *Construction Site Erosion Control.* Unless otherwise exempted under sub. (c) below, a storm water permit under sec. 14-334 shall be required and all erosion control and other provisions of this ordinance shall apply to all proposed land disturbing activity that meets any of the following:

1. Disturbs a total land surface area of 3,000 square feet or more; or

2. Involves excavation or filling, or a combination of excavation and filling, in excess of 400 cubic yards of material; or

3. Involves the laying, repairing, replacing, or enlarging of an underground utility, pipe or other facility, or the disturbance of road ditch, grass swale or other open channel for a distance of 300 feet or more; or

4. Is a land disturbing activity, regardless of size, that the LRD determines is likely to cause an adverse impact to an environmentally sensitive area or other property, or may violate any other erosion control standard set forth in this ordinance.

(b) *Storm Water Management.* Unless otherwise exempted in this ordinance, a storm water permit under sec. 14-334shall be required and all storm water management and other provisions of this ordinance shall apply to all proposed land development activity that meet any of the following:

1. Is a subdivision plat; or

2. Is a certified survey map or any other land development activity that may ultimately result in the addition of 0.5 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development that may be constructed at different times; or

3. Involves the construction of any new public or private road; or

4. Is a land development activity, regardless of size, that the LRD determines is likely to cause an adverse impact to an environmentally sensitive area or other property. For purposes of this section, adverse impacts shall include causing chronic wetness on other

property due to reoccurring discharges of storm water, or violating any other storm water management standard set forth in this ordinance.

Note: The County Park and Planning Commission, County Zoning Administrator or Town Planning Commission may require a review and determination of sub. (a)4. or (b)4. above by the LRD as a condition of other zoning approvals.

(c) *Applicability Exemptions.*

1. *Exempt From All Requirements.* The following activities shall be exempt from all of the requirements of this ordinance:

   A. Land disturbing activities directly involved in the planting, growing and harvesting of any plant grown for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries.

   B. Land development and land disturbing activities exempted by state or federal law, including highway construction and other projects conducted by a state agency, as defined under s. 227.01 (1), Wisconsin Statutes, or under a memorandum of understanding entered into under s. 281.33 (2), Wisconsin Statutes To recognize an exemption under this paragraph, the LRD may require documentation of the person(s) and regulatory agency charged with enforcing erosion control and storm water management for the project.

   C. Land disturbing activity directly involved in the installation and maintenance of private on-site waste disposal systems, as regulated under this ordinance.

   D. If another regulatory agency is enforcing erosion control and storm water management provisions that the LRD determines are at least as restrictive as those contained in this ordinance, the applicant may request an exemption from any or all provisions of this ordinance. An applicant must apply for this exemption on a form provided by the LRD for that purpose. There will be a fee associated with reviewing the request in accordance with sec. 14-334(e). Based upon the scope of the requested exemption, the LRD may require the applicant to submit documentation relating to the project, including any or all of the following:

      i. A copy of the proposed plans certified as approved by a regulatory agency. Said plans shall also be stamped by a professional engineer licensed in Wisconsin, stating that the design of all best management practices comply with this ordinance and all applicable technical standards.

      ii. Contact information for the applicant or for person(s) representing the applicant and charged with overseeing the implementation of the approved plans, including certifying construction.

      iii. A copy of the permit issued by the regulatory agency and contact information for the person(s) charged with permit enforcement duties.

      iv. A copy of design summaries, as-built documents and construction

certification pursuant to sec. 14-335(d) for all storm water BMPs constructed as part of the project.

v. A copy of a recorded maintenance agreement in accordance with sec. 14-343 for all storm water management facilities constructed as part of the project.

vi. Other items that the LRD determines are necessary to ensure compliance equal to the requirements of this ordinance.

Note: Cooperative working agreements may be used to implement the provisions of this subsection.

2. *Exempt From Erosion Control Requirements Only.* The following land disturbing activities shall be exempt from the erosion control provisions of sub. (a) above:

A. Those activities the LRD determines are required for the construction of individual one and two family residential buildings under COM. 21.125 Wis. Admin. Code.

Note: The Wisconsin Uniform Dwelling Code (COM 21) includes erosion control requirements that apply statewide. The County Zoning Administrator or any Town may request a determination from the LRD under sub. A above as a condition of issuing a local building or zoning permit.

B. Nonmetallic mining activities that are covered under a nonmetallic mining reclamation permit under NR 135 Wis. Admin. Code.

C. Placement of underground pipe or other utility that is plowed or bored into the ground outside areas of channelized runoff.

3. *Other Exemptions.* The LRD may exempt a site or a portion of a site from meeting certain technical requirements of this ordinance in accordance with Sec. 14-341(e).

Note: Cooperative working agreements may be used to administer this section for routine road maintenance and emergency utility work.

(Ord. No. 159-120, 3-22-05)

Sec. 14-334 Storm Water Permit Process, Land Divisions and Zoning

(a) *Permit Required.* A storm water permit under sub. (c) shall be obtained before any person commences a land disturbing or land development activity, pursuant to the applicability and exemption provisions of Sec. 14-333. Based upon the scope of the project, a preliminary review letter under sub. (b) below and certification of compliance under sub. (d) below will also be required as part of the permit process.

(b) Preliminary Storm Water Review Letter.

1. *Purpose and Intent.* A preliminary storm water review letter is prepared by the LRD to ensure that early site-planning for any new development accounts for compliance with this ordinance. Preliminary storm water planning will help resolve spatial and soils

issues early in the site-planning phase, preventing a conflict with other permit requirements or the recording of land divisions. This will also assist the applicant in obtaining other permits or zoning approvals prior to finalizing detailed construction plans. A storm water permit is required prior to the start of any proposed land disturbing or land development activity.

2. *Applicability and Requirements.*

A. A preliminary storm water review letter from the LRD is required prior to the approval of a preliminary plat by the County Zoning Administrator and shall also be required prior to approval of a certified survey map, site plan, conditional use permit, zoning permit or zoning amendment by the County Park and Planning Commission or County Zoning Administrator for any proposed land disturbing or land development activity that meets one or more of the following:

i. Disturbs a total land surface area of 1 acre or more;
ii. Involves the construction of a new public or private road of any length;
iii. Ultimately results in the addition of 0.5 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development; or
iv. Other land disturbing or land development activities, as determined by the LRD under sec. 14-333 (a)4. or (b)4. above.

Note: It is strongly recommended that town planning commissions also require a preliminary review letter from the LRD prior to approving any project that meets one of the criteria under sub. A. above.

B. All project approvals described in sub. A. above shall be subject to the recommendations, requirements or objections contained in a preliminary review letter from the LRD, which may include requiring certification of compliance under sub. (d) below.

C. For preliminary plats, a county interdepartmental review meeting shall not be scheduled prior to 10 working days after the application submittal date for a preliminary review letter in accordance with sub. (f)1. below.

Note: It is recommended that subdivisions and other projects that may result in the addition of 0.5 acres of impervious surface go through a concept-planning phase, including meeting with LRD and county zoning staff, prior to submitting a preliminary plat or CSM.

3. Preliminary Review Letter Application.

A. To request a preliminary review letter, the applicant shall submit a complete application to the LRD, which shall include all of the following:

i. A completed and signed application on a form provided by the LRD for that purpose;

ii. The application fee, unless exempted under sub. (e) below;

iii. A site plan map in accordance with sec. 14-341(c), which may be in a

preliminary stage as prepared for zoning amendments and certified survey maps;

iv. A preliminary erosion control plan in accordance with sec. 14-340(d);

v. A preliminary storm water management plan in accordance with sec. 14-341(f) for those sites that propose to add a new road or add 0.5 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development; and

vi. A preliminary maintenance agreement for all storm water BMP's proposed for the site.

B. The LRD may waive the requirement for a preliminary erosion control or preliminary storm water management plan under sub. A above if the LRD determines that it is not necessary to ensure compliance with this ordinance based on the site map submitted. However, all items required for a storm water permit shall apply.

C. The LRD may require map items listed above to be submitted in a digital form, if available, including georeferencing map data to the public land survey system in accordance with county mapping standards.

D. Review procedures for a preliminary review letter application shall be in accordance with sub. (f)1. below.

(c) Storm Water Permit Application.

1. To request a storm water permit under this ordinance, the applicant shall submit a complete application, which shall include all of the following:

A. A completed and signed application on a form provided by the LRD for that purpose;

B. The applicable fee(s), unless exempted under sub. (e) below;

C. A site plan map in accordance with sec. 14-341(c);

D. A final erosion control plan in accordance with sec. 14-340(e);

E. A final storm water management plan in accordance with sec. 14-341(g) for those land development activities that meet any of the applicability criteria of sec. 14-333 (b), and the documentation required under sec. 14-341(e)2.D. related to a off-site BMP's, if applicable;

F. A maintenance agreement in accordance with sec. 14-343 and

G. A financial assurance, in accordance with sec. 14-335(c).

2. The LRD may require map items listed above to be submitted in a digital form, if available, including georeferencing map data to the public land survey system in accordance with county mapping standards.

3. Review procedures for a storm water permit application shall be in accordance with sub. (f) below.

Note: A permit application form under sub. A. above may not be necessary if the applicant has already submitted an application for a Preliminary Review Letter.

(d) Certification of Compliance for Final Plat or CSM.

1. *Applicability.* The LRD shall certify compliance with this section prior to county approval of any final plat. In addition, certification of compliance shall be required prior to county approval of any certified survey map (CSM) that meets any one of the following:

A. The site plan may ultimately result in the addition of .5 acres or greater of impervious surfaces, including smaller individual sites that are part of a common plan of development;

B. Includes the construction of any new public or private road; or

C. Other land development activities as determined by the LRD under sub. (b)2.B. above.

Note: It is strongly recommended that a town plan commission require certification of compliance under this subsection before approving any CSM or other zoning approvals that may meet one of the criteria listed above.

2. *Review Items.* To obtain certification of compliance, the applicant shall submit a final plat or CSM to the LRD for review. The LRD shall review submittals for compliance with all of the following items based on preliminary or final site plans and storm water management plans:

A. Location and size of drainage easements and other areas set aside for storm water management, and the associated language describing use restrictions;

B. Setback requirements from wells, structures, steep slopes, road right-of-ways and other items related to the location of storm water management facilities;

C. Location of access drives and associated easements and use restrictions to ensure adequate access to storm water management facilities for future maintenance;

D. Utility easements as they may affect the grading and erosion control plans;

E. The final maintenance agreement in accordance with sec. 14-343 for all storm water BMP's; and

F. Other items that the LRD determines are necessary to achieve compliance with

this ordinance.

3. *Review Process.* Review procedures for certification of compliance for final plat or CSM shall be as described in sub. (f)1. below.

Note: To avoid disapproval of the final plat, it is recommended that a final storm water management plan be approved by the LRD prior to submittal of the final plat.

(e) *Fees.* Application and review fees under this ordinance shall be in accordance with the following:

1. All fees shall be established by the LRD and approved by the County Board through the annual budget process.

2. Fee amounts shall be based on the actual and direct LRD costs of administering this ordinance.

3. A fee schedule shall be available for review and public distribution.

4. All publicly funded land disturbing and land development activities within the jurisdiction of this ordinance shall be exempt from the fees under this section.

(f) Application Review Processes.

1. *Preliminary Storm Water Review Letter and Certification of Compliance.* Upon submittal of a complete application under sub. (b) above or a final plat or CSM under sub. (d) above, the applicant is authorizing the LRD to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

   A. The LRD shall have 10 working days from the date the LRD receives the application to issue a review letter to the applicable review authorities and the applicant based on the requirements of this ordinance.

   B. If within the 10 working days, the LRD determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the LRD shall have 10 working days from the date additional information is received to issue a review letter. The LRD shall inform the applicant and the applicable review authorities when additional information is requested from another source.

   C. If the LRD does not notify the applicant of missing information or issue a review letter within the 10 working days, the applicant may continue pursuing other applicable approvals or deed recording without the preliminary storm water review letter or certification of compliance.

   D. If within the 10 working days, the LRD notifies the applicable review authorities that the application under sub. (b)3. above is not complete, information has been requested from another source, or recommended changes or objections to the application need to be addressed before other approvals can proceed, then the

applicable review authorities may:

i. At the request of the applicant, grant an extension to the review period, if needed, to allow more time for the LRD review process to be completed or to address LRD recommendations, requirements or objections to the application; or

ii. Disapprove the application, plat or CSM.

2. *Storm Water Permit, Less Than One Acre Land Disturbance and Applicability Exemptions.* Upon submittal of a complete permit application under sub. (c) above or applicability exemption application under sec. 14-333(c), the applicant is authorizing the LRD to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

A. Within 10 working days from the date the LRD receives the application, the LRD shall inform the applicant whether the application materials are approved or disapproved based on the requirements of this ordinance.

B. If all requirements of this ordinance have been met through the application, the LRD shall approve the application and issue a permit or exemption. If all requirements of this ordinance have not been met, the LRD shall state in writing the reasons for disapproval.

C. If within the 10 working days, the LRD determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the LRD shall have 10 working days from the date the additional information is received to review and act on the application. The LRD shall inform the applicant when additional information is requested from another source.

D. Failure of the LRD to inform the applicant of missing information or of a decision within 10 working days shall be deemed to mean approval of the application and the applicant may proceed as if a permit had been issued.

3. *Storm Water Permit Greater Than One Acre Land Disturbance and Technical Exemptions.* Upon submittal of a complete application under sub. (c) above or a technical exemption application under sec. 14-341(e), the applicant is authorizing the LRD to enter upon the subject site to obtain information needed to administer this ordinance and the following procedures shall apply:

A. Within 20 working days from the date the LRD receives the application, the LRD shall inform the applicant whether the application materials are approved or disapproved based on the requirements of this ordinance.

B. If all requirements of this ordinance have been met through the application, the LRD shall approve the application and issue a permit. If all requirements of this ordinance have not been met, the LRD shall state in writing the reasons for disapproval.

C. If within the 20 working days, the LRD determines that the application is not complete or requests additional information from the applicant or another source (such as another regulatory agency), the LRD shall have 20 working days from the date the additional information is received to review and act on the application. The LRD shall inform the applicant when additional information is requested.

D. Failure of the LRD to inform the applicant of missing information or of a decision within the 20 working days shall be deemed to mean approval of the application and the applicant may proceed as if a permit had been issued.

(Ord. No. 152-147, 3/24/98; Ord. No. 159-120, 3/22/05)

Sec. 14-335 Storm Water Permit Requirements

(a) *General Permit Requirements.* Storm water permits shall be subject to all of the requirements of this section. Violation of any permit requirement shall cause the permit holder and any other responsible party to be subject to enforcement action under sec. 14-345. Upon issuance of a storm water permit, the permit holder and any other responsible party shall be deemed to have accepted these requirements. General requirements include all of the following:

1. *Other Permits.* Compliance with a storm water permit does not relieve the permit holder or other responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations. The LRD may require the applicant to obtain other permits or plan approvals prior to issuing a storm water permit.

2. *Approved Plans.* All best management practices shall be installed and maintained in accordance with approved plans and construction schedules. A copy of the approved plans shall be kept at the construction site at all times during normal business hours.

3. *Plan Modifications.* The LRD shall be notified of any significant modifications proposed to be made to the approved plans. The LRD may require proposed changes to be submitted for review prior to incorporation into the approved plans or implementation. Any modifications made during plan implementation without prior approval by the project engineer under sub. 6 below and the LRD are subject to enforcement action.

4. *Notification.* The LRD shall be notified at least 2 working days before commencing any work in conjunction with approved plans. The LRD shall also be notified of proposed plan modifications under sub. 3 above, and within 1 working day of completing construction of a storm water BMP. The LRD may require additional notification according to a schedule established by the LRD so that practice installations can be inspected during construction.

5. *LRD Access.* The LRD or its designee shall be permitted access to the site for the purpose of inspecting the property for compliance with the approved plans and other permit requirements.

6. *Project Engineer/Landscape Architect.* The permit holder shall provide an engineer licensed in the state of Wisconsin to be responsible for achieving compliance with

approved construction plans, including the implementation of the approved inspection plan and verification of construction in accordance with sub. (d) below. If warm season or wetland plantings are involved, the permit holder shall also provide a landscape architect or other qualified professional to oversee and verify the planting process and its successful establishment.

7. *Inspection Log.* The permit holder shall provide a qualified professional to conduct inspections and maintain an inspection log for the site. All best management practices shall be inspected within 24 hours after each rain event of 0.5 inch or more that results in runoff, or at least once each week. The inspection log shall include the name of the inspector, the date and time of inspection, a description of the present phase of construction, the findings of the inspection, including an assessment of the condition of erosion and sediment control measures and the installation of storm water management BMPs, and any action needed or taken to comply with this ordinance. The inspection log shall also include a record of BMP maintenance and repairs conducted under subs. 8 and 9 below. The permit holder shall maintain a copy of the inspection log at the construction site or via the Internet, and shall notify the LRD of the method of availability upon permit issuance. If the inspection log is maintained on site, the LRD may view or obtain a copy at any time during normal business hours until permit termination under sub. (b) below. If the inspection log is made available via the Internet, the permit holder shall notify the LRD of the appropriate Internet address and any applicable access codes, and shall maintain the availability of the log until permit termination under sub. (b) below.

8. *BMP Maintenance.* The permit holder shall maintain and repair all best management practices within 24 hours of inspection, or upon notification by the LRD, unless the LRD approves a longer period due to weather conditions. All BMP maintenance shall be in accordance with approved plans and applicable technical standards until the site is stabilized and a permit termination letter is issued under sub. (b) below. The permit holder, upon approval by the LRD, shall remove all temporary erosion control practices such as silt fence. The permit holder, in accordance with approved plans and applicable technical standards, shall maintain permanent storm water management practices until maintenance responsibility is transferred to another party or unit of government pursuant to the recorded maintenance agreement.

9. *Other Repairs.* The permit holder shall be responsible for any damage to adjoining properties, municipal facilities or drainage ways caused by erosion, siltation, runoff, or equipment tracking. The LRD may order immediate repairs or clean-up within road right-of-ways or other public lands if the LRD determines that such damage is caused by activities regulated by a permit under this ordinance. With the approval of the landowner, the LRD may also order repairs or clean-up on other affected property.

10. *Emergency Work.* The permit holder authorizes the LRD, in accordance with the enforcement procedures under sec. 14-345, to perform any work or operations necessary to bring erosion control or storm water management practices into conformance with the approved plans and consents to charging such costs against the financial assurance pursuant to sub. (c) below or to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wisconsin Statutes

11. *Permit Display.* The permit holder shall display the storm water permit in a manner that can be seen from the nearest public road and shall protect it from damage from weather and construction activities until permit termination under sub. (b) below.

12. *Other Requirements.* The LRD may include other permit requirements that the LRD determines are necessary to ensure compliance with this ordinance.

(b) Storm Water Permit Issuance, Duration, Amendments, Transfer and Termination.

1. *Permit issuance.* The LRD shall issue a permit to the applicant after verifying that all applicable conditions of this ordinance and possibly other related permits have been met, including the submittal of contact information for all responsible parties and the submittal of the financial assurance under sub. (c) below. The LRD may delay issuance of a storm water permit if the LRD determines that the proposed construction timelines and best management practices will not comply with the erosion control plan requirements under sec. 14-340 or the purposes of the ordinance under Sec. 14-328, including proposed late season new road construction with grass swales.

Note: The LRD has determined that it is difficult and/or costly to avoid adverse impacts to other property and the environment to construct new roads with grass swales after standard seeding deadlines for cool season grasses.

2. *Permit duration.* The LRD shall establish an expiration date for all storm water permits based on the construction schedules in the approved erosion control and storm water management plans. The applicant shall notify the LRD of any changes to the proposed schedule prior to permit issuance.

3. *Permit amendments.* The LRD may amend any terms of a storm water permit, including extending the permit expiration date, if the LRD determines it is necessary to ensure compliance with this ordinance. The applicant shall request an amendment to a storm water permit at least 2 weeks before permit expiration on a form provided by the LRD for that purpose and shall pay the corresponding fee. The LRD may require additional erosion control or storm water management measures as a condition of granting a permit amendment.

4. *Permit transfer.* The LRD may transfer a storm water permit issued under this ordinance to a new applicant upon a written request from the applicant and payment of the corresponding fee. The permit transfer shall not take effect until the LRD verifies in writing that the new applicant has satisfied all conditions of this ordinance, including an updated list of responsible parties and the submittal of a new financial assurance under sub. (c) below.

5. *Permit termination.* The LRD shall issue a permit termination letter to the permit holder upon releasing the financial assurance under sub. (c) below, which shall serve as documentation that all conditions of this ordinance have been satisfied and the permit has been terminated. A copy of this letter shall also be sent to the Wisconsin Department of Natural Resources and shall serve as the "Notice of Termination" under s.s. NR 216.55 Wis. Admin. Code.

(c) *Financial Assurance.*

1. *Purpose.* The LRD may require the applicant to submit a financial assurance to ensure compliance with the approved erosion control and storm water management plans and other storm water permit requirements.

2. *Type and Authority.* The LRD shall determine the acceptable type and form of financial assurance, which may include cash, a bond, an escrow account or irrevocable letter of credit. The LRD shall, upon written notice to the permit holder, be authorized to use the funds to complete activities required in the approved plans or this ordinance if the permit holder or other responsible party defaults or does not properly implement the requirements.

3. *Amount.* The amount of the financial assurance shall be determined by the LRD and shall not exceed the estimated cost of completing the approved erosion control and storm water management plans.

4. *Exemption.* Publicly funded land disturbing or land development activities shall be exempt from providing a financial assurance.

5. *Security.* The LRD shall provide the permit holder or other responsible party a written statement outlining the purpose of the financial assurance, the applicable amount and type received and all of the conditions for release.

6. *Conditions for Release.* The LRD shall release the financial assurance, and issue a termination letter in accordance with sub, (b)5. above, only after determining full compliance with the permit and this ordinance, including the following:

   A. Accepting an "as-built" survey certified pursuant to sub. (d)1. below;

   B. Accepting verification of construction pursuant to sub. (d)2. below;

   C. Completing a satisfactory final inspection pursuant to sub (e) below;

   D. Receiving a copy of the recorded maintenance agreement pursuant to sec. 14-343 of this ordinance.

7. *Partial Releases.* The permit holder may apply for a partial release of the financial assurance based on the completion or partial completion of various construction components or satisfaction of individual requirements noted above.

8. *Amounts Withheld.* The LRD shall withhold from the financial assurance amount released to the permit holder any costs incurred by the LRD to complete installation or maintenance of best management practices through enforcement action or prior to the transfer of maintenance responsibilities through an approved maintenance agreement, or other unpaid fees or costs incurred by the LRD associated with the enforcement of this ordinance.

9. *Other Financial Assurances.* The financial assurance provisions of this ordinance shall be in addition to any other financial assurance requirements of the local community for other site improvements. Any arrangements made to share financial assurances with the local community shall be made at the discretion of the LRD and shall be at least as restrictive the requirements in this ordinance.

(d) *Construction and Planting Verification.*

1. *As-built Survey.* To ensure compliance with this ordinance and to serve as a basis for the engineering verification under sub. 2 below, an as-built survey shall be completed in accordance with LRD standards and certified as accurate by a registered land surveyor or an engineer licensed in the State of Wisconsin. As-built plans shall be submitted to the LRD for all storm water management BMPs, bridges and culverts pursuant to sec. 14-341(d).6.D. below, and other permanent best management practices or practice components as deemed necessary by the LRD to ensure its long-term maintenance. The LRD may require a digital submittal of the as-built survey, in accordance with LRD standards.

2. *Verification.* A professional engineer licensed in the State of Wisconsin shall verify, in accordance with LRD standards, that the engineer has successfully completed all site inspections outlined in the approved plans and that the construction of all storm water management BMPs, as determined by the LRD, comply with the approved plans and applicable technical standards or otherwise satisfy all the requirements of this ordinance. If warm season or wetland plantings are involved, a landscape architect or other qualified professional shall verify the planting process and its successful establishment, in accordance with LRD standards.

3. *Design Summaries.* Any changes noted in the as-built survey or final design data compared to the design summaries approved with the final storm water management plans shall be documented and resubmitted to the LRD as part of the verification under sub. 2 above.

(e) *Final Inspection.* After completion of construction, the LRD shall conduct a final inspection of all permitted sites to determine compliance with the approved plans and other applicable ordinance requirements, including ensuring the site is stabilized. If, upon inspection, the LRD determines that any of the applicable requirements have not been met, the LRD shall notify the permit holder what changes would be necessary to meet the requirements. At the request of the permit holder, the LRD shall provide a notification of noncompliance or a report of final inspection in written or electronic form.

(Ord. No. 159-120, 3/22/05)

Sec. 14-336 – 339 Reserved.

Sec. 14-340 Erosion Control Plan Requirements.

(a) *General Erosion Control Plan Requirements and Performance Standards.* An erosion control plan shall describe how the permit holder and other responsible party will minimize, to the maximum extent practicable, soil erosion and the transport of sediment from land disturbing activities to

waters of the state or other property. To meet this requirement, the following performance standards shall apply:

1. All erosion control plans and associated BMPs shall comply with the planning, design, implementation and maintenance requirements of this ordinance.

2. All erosion control plans shall by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls, until the site is stabilized.

3. Erosion and sediment control BMPs may be used alone or in combination to meet the 80% sediment reduction goal. Plans that comply with the guiding principles described in sub. (b) below and the specific erosion control plan requirements described in sub. (c) below shall be determined by the LRD as meeting the 80% sediment reduction goal.

4. The LRD may recognize other methods for determining compliance with the 80% sediment reduction goals as they are standardized, including any methods that may come from the procedures under subch. V. of ch. NR 151, Wis. Adm. Code.

Note: Soil loss prediction tools are available that can estimate the sediment load leaving the construction site under varying land and management conditions and the application of erosion control BMPs. An example of such a tool is the Revised Universal Soil Loss Equation, published by the USDA-Natural Resources Conservation Service.

(b) *Guiding Principles for Erosion Control.* To satisfy the requirements of this section, an erosion control plan shall, to the maximum extent practicable, adhere to the following guiding principles:

1. Propose grading that best fits the terrain of the site, avoiding steep slopes, wetlands, floodplains and environmental corridors;

2. Minimize, through project phasing and construction sequencing, the time the disturbed soil surface is exposed to erosive forces;

3. Minimize soil compaction, the loss of trees and other natural vegetation and the size of the disturbed area at any one time;

4. Locate erosion control BMPs upstream from where runoff leaves the site or enters waters of the state and outside of wetlands, floodplains, primary or secondary environmental corridors or isolated natural areas; and,

5. Emphasize the use of BMPs that prevent soil detachment and transport over those aimed to reduce soil deposition (sedimentation) or repair erosion damage.

(c) *Specific Erosion Control Plan Requirements.* The following applicable minimum requirements shall be addressed in erosion control plans to the maximum extent practicable. The LRD may establish more stringent erosion and sediment control requirements than the minimums set forth in this section if the LRD determines that an added level of protection is needed to protect an environmentally sensitive area or other property, or to address a change made during plan implementation.

1. *Access Drives and Tracking.* Provide access drive(s) for construction vehicles that minimize tracking of soil off site using BMPs such as stone tracking pads, tire washing or grates. Minimize runoff and sediment from adjacent areas from flowing down or eroding the access drive.

2. *Diversion of Upslope Runoff.* Divert excess runoff from upslope land, rooftops or other surfaces, if practicable, using BMPs such as earthen diversion berms, silt fence and downspout extenders. Prevent erosion of the flow path and the outlet.

3. *Inlet Protection.* Protect inlets to storm drains, culverts and other storm water conveyance systems from siltation until the site is stabilized.

4. *Soil Stockpiles.* Locate soil stockpiles away from channelized flow and no closer than 25 feet from roads, ditches, lakes, streams, ponds, wetlands or environmental corridors, unless otherwise approved by the LRD. Control sediment from soil stockpiles. Any soil stockpile that remains for more than 30 days shall be stabilized.

5. *Cut and Fill Slopes.* Minimize the length and steepness of proposed cut and fill slopes and stabilize them as soon as practicable.

6. *Channel Flow.* Trap sediment in channelized flow before discharge from the site using BMPS such as sediment traps and sediment basins. Stabilize open channels in accordance with LRD standards as soon as practicable.

7. *Outlet Protection.* Protect outlets from erosion during site dewatering and storm water conveyance, including velocity dissipation at pipe outfalls or open channels entering or leaving a storm water management facility.

8. *Overland Flow.* Trap sediment in overland flow before discharge from the site using BMPs such as silt fence and vegetative filter strips.

9. *Site Dewatering.* Treat pumped water to remove sediment prior to discharge from the site, using BMPs such as sediment basins and portable sediment tanks.

10. *Dust Control.* Prevent excessive dust from leaving the construction site though construction phasing and timely stabilization or the use of BMPs such as site watering and mulch – especially with very dry or fine sandy soils.

11. *Topsoil Application.* Save existing topsoil and reapply a minimum of 4 inches to all disturbed areas for final stabilization, unless otherwise approved by the LRD, such as for temporary seeding or storm water infiltration BMPs. If adequate topsoil does not exist on the site to meet this requirement, it shall be imported or a topsoil substitute such as compost may be used, upon approval by the LRD.

12. *Waste Material.* Recycle or properly dispose all waste and unused building materials in a timely manner. Control runoff from waste materials until they are removed or reused.

13. *Sediment Cleanup.* By the end of each workday, clean up all off-site sediment deposits or tracked soil that originated from the permitted site. Flushing shall not be allowed

unless runoff is treated before discharge from the site.

14. *Final Site Stabilization.* All previous cropland areas where land disturbing activities will not be occurring under the proposed grading plans, shall be stabilized within 30 days of permit issuance. Stabilize all other disturbed areas within 7 days of final grading and topsoil application. Large sites shall be treated in stages as final grading is completed in each stage. Any soil erosion that occurs after final grading or the application of stabilization measures must be repaired and the stabilization work redone.

15. *Temporary Site Stabilization.* Any disturbed site that remains inactive for greater than 7 days shall be stabilized with temporary stabilization measures such as soil treatment, temporary seeding or mulching. For purposes of this subsection, "inactive" means that no site grading, landscaping or utility work is occurring on the site and that precipitation events are not limiting these activities. Frozen soils do not exclude the site from this requirement.

16. *Removal of Practices.* Remove all temporary BMPs such as silt fences, ditch checks and sediment traps as soon as all disturbed areas have been stabilized.

17. *Site Drainage.* Site drainage plans shall comply with the provisions of sec. 14-341(d)6. below.

(d) *Preliminary Erosion Control Plan Contents.* Preliminary erosion and sediment control plans shall contain the following items:

1. A site map in accordance with sec. 14-341 (c) below;

2. A brief narrative describing the proposed land disturbing activity, construction timeline and sequencing, and a general review of the major erosion and sediment control BMPs proposed to be used to minimize off-site impacts during the construction phase and to stabilize the site following construction.

3. Delineation of the following items on the map under par. 1 above:

   A. The area and size (in acres) of the proposed land disturbance;

   B. The woodland and wetland areas, and the size (in acres) of each that is proposed to be lost during construction and a general description of the current vegetation types and tree sizes;

   C. The general location of major BMPs described in sub. 1 above.

(e) *Final Erosion Control Plan Contents.* The following shall be the minimum requirements for items to be included in a final erosion and sediment control plan:

1. *Sites Less than One Acre of Total Land Disturbance.*

   A. A narrative describing the proposed land disturbing activity, construction timeline and sequencing, temporary BMPs to be used to minimize off-site

impacts during the construction phase, and proposed methods to stabilize the site following construction in accordance with the requirements of this ordinance;

B. A survey map or scaled site plan drawing of sufficient clarity showing a north arrow, the location of proposed land disturbance, direction of flow for runoff entering and leaving the disturbed area, upslope drainage area (if known), proposed BMPs, existing and proposed slopes, ground cover, buildings, roads, access drives, property boundaries, drainage ways, water bodies, trees, culverts, utilities and other structures within 50 feet of the proposed land disturbance;

C. The name, address and daytime phone number of the person(s) charged with installing and maintaining all best management practices;

D. For underground utility installations, the plans must delineate where utilities will be installed, show the location of the open cut and the topography in the area, and list the total lineal feet to be installed and the lineal feet that will be done by open cut; and

E. Other information determined to be necessary by the LRD to ensure compliance with the requirements of this chapter.

2. *Sites One Acre or Greater in Total Land Disturbance.*

A. A site map in accordance with sec. 14-341 (c) below;

B. A map at a scale of 1 inch equals no more than 100 feet (unless otherwise noted), delineating and labeling the following applicable items:

i. North arrow, graphic scale, draft date, name and contact information for project engineer or planner and designation of source documents for all map features.

ii. Proposed site topography at contour intervals not to exceed two feet, proposed percent slope for all open channels and side slopes and all proposed runoff discharge points from the site;

iii Proposed building envelopes and other land area to be disturbed and size in acres;

iv. All woodland areas, those proposed to be lost or transplanted during construction and acres or numbers of each. For woodlands proposed to be lost, show individual trees larger than eight (8) inches in diameter that are located within twenty (20) feet of proposed grading boundaries;

v. Temporary access drive and specified surface material and minimum depth;

vi. Temporary flow diversion devices for upslope or roof runoff until site is stabilized;

vii. Temporary sediment trapping devices for site perimeter and inlets to culverts and storm drains;

viii. Temporary settling basin or other BMP to be used for site dewatering during utility or other subsurface work;

ix. Temporary soil stockpile sites indicating setbacks from nearby water resources or environmental corridors and the proposed erosion protection methods;

x. Detailed drawings and cross-sections for any sediment traps, basins or other major cut or fill areas requested by the LRD, showing side slopes and elevations;

xi. Final stabilization measures for open channels and erosion protection for pipe and channel inlets, outlets and emergency spillways;

xii. Location of proposed utilities, including: standard cross-section for buried utilities, associated easements, labeling the type of utility and notes on erosion control and restoration plans;

xiii. Final site stabilization instructions for all other disturbed areas, showing areas to be stabilized in acres, depth of applied topsoil, seed types, rates and methodology, fertilizer, sod or erosion matting specifications, maintenance requirements until plants are well established, and other BMPs used to stabilize the site;

xiv. Detailed construction notes clearly explaining all necessary procedures to be followed to properly implement the plan, including estimated starting date of grading, timing and sequence of construction or demolition, any construction stages or phases, utility installation, dewatering plans, refuse disposal, inspection requirements, and the installation, use, and maintenance of best management practices proposed in the plan;

xv. Location of soil evaluations with surface elevations and unique references to supplemental soil evaluations report forms in accordance with sec. 14-342(e) below. Also show estimated seasonal water table depths and soil textures down to planned excavation depths, which may be on a separate map with sufficient references to the proposed site plan.

Note: Water table depths are needed to plan for dewatering activities for excavations and utility installations and to document compliance with water table separation requirements under sub. 14-341(e) below. The separate map may be at a different scale if needed. Soil textures help the project engineer and grading contractor plan for excavation, soil stockpiles, earthen berm compaction, pond lining, dust control, site stabilization and other grading related activities.

xvi. Other items specified by the LRD as necessary to ensure compliance with this ordinance.

C. Supporting information for the plan reviewer only:

i. A narrative summary of the erosion control plan, briefly explaining the overall plan and, any unique information that led to the selection of BMPs and how the plan meets the guiding principles under sub. (b) above and the specific requirements under sub. (c) above;

Note: This information may be combined with a narrative for the storm water management plan under sec. 14-341(g)12. The information may also be useful to the grading contractor and could be included in the construction notes on the plan map under sub. B(xiv) above.

ii. Summary of design data for any structural BMP such as sediment basins or sediment traps. A professional engineer, licensed in the State of Wisconsin, shall stamp and sign a statement approving all designs and certifying that they have read the requirements of this ordinance and that, to the best of their knowledge, the submitted plans comply with the requirements;

iii. Open channel design and stabilization data to support the selected BMPs for stabilization;

iv. Soil evaluation reports, in accordance with the standards in Sec. 14-342(e), with unique references and elevations that match the map under sub. B(xv) above.

v. Estimated time soil stockpiles will exist to support the selected BMPs for erosion control;

vi. Documentation that proposed utility locations and installation scheduling has been coordinated with the affected utility companies.

vii. Documentation of any other calculations used to demonstrate compliance with the performance standards in this section.

(Ord. No. 152-147, 3/24/98; Ord. No. 159-120, 3/22/05)

Sec. 14-341 Storm Water Management Plan Requirements.

(a) *General Storm Water Management Plan Requirements.* A storm water management plan shall describe how the permit holder and other responsible party will meet the storm water management requirements of this section and other related requirements in this ordinance. All storm water management plans and associated BMPs shall comply with the planning, design, implementation and maintenance requirements described in this ordinance.

(b) *Guiding Principles for Storm Water Management.* To satisfy the requirements of this section, a storm water management plan shall, to the maximum extent practicable, adhere to the following guiding principles:

A. Preserve natural watershed boundaries and drainage patterns;

B. Reserve adequately sized areas for storm water infiltration, detention and treatment early in the site planning process;

C. Locate storm water BMPs prior to runoff leaving the site or entering waters of the state, and outside of wetlands, floodplains, primary or secondary environmental corridors or isolated natural areas;

D. Minimize soil compaction and maintain pre-development groundwater recharge areas;

E. Minimize impervious surfaces and have them drain to vegetated areas for pollutant filtering and infiltration;

F. Emphasize vegetated swales, warm season and wetland plantings, and low flow velocities for storm water conveyance, treatment and infiltration, especially for transportation related projects;

Note: Tall, dense, deep-rooted vegetation and low flow velocities in open channels encourages infiltration and increases their effectiveness for runoff pollutant removal. Check dams may also be included in the swale design to slow runoff flows and improve pollutant removal. Soil amendments such as compost can help reduce soil compaction and increase infiltration.

G. Allow for different storm water management strategies for cleaner runoff (i.e. roofs) versus more polluted runoff (i.e. heavily used streets and parking lots);

H. Provide for emergency overflow in all storm water BMP designs;

I. Distribute storm water bioretention and infiltration BMPs throughout the site plan for large land developments.

(c) *Site Plan Map Requirements.* A site plan map and supporting data of site conditions at a scale of 1 inch equals no more than 100 feet (unless otherwise noted) shall delineate or display all the following applicable items:

1. Development title, graphic scale and north arrow;

2. Property location description by public land survey system (1/4 section, section, township, range, county);

3. Location map (smaller scale) showing the site location within a public land survey section or subdivision, oriented the same as par. 4 below;

4. Ownership boundaries, bearings, lengths and other survey references that will accurately identify the sites location, in accordance with s. 236 Wisconsin Statutes and county mapping standards for all land divisions;

5. Lot numbers and dimensions, including outlots for all land divisions;

6. Name and complete contact information for the applicant, landowner, developer and project engineer;

7. Surveyor's certificate, signed, dated and sealed for all land divisions;

8. Sheet numbers and revision dates on every page;

9. Existing site topography at a contour interval not to exceed 2 feet, including spot elevations for physical features such as culvert (invert elevations), retaining walls, road and ditch centerlines and topographic high and low points;

10. Location and name, if applicable, of all lakes, streams, channels, ditches, and other water bodies or areas of channelized flow on or adjacent to the site;

11. Location and name, if applicable, of all wetlands and identification of source of delineation. For final land divisions, these boundaries shall be field verified;

12. Boundaries of shoreland zones and the ordinary high water mark (OHWM) for any navigable water body as defined by the Waukesha County Shoreland and Floodland Protection ordinance. For final land divisions, the OHWM boundaries shall be field verified;

13. Boundaries and elevation of the 100-year floodplains, flood fringes and floodways, as defined by the Waukesha County Shoreland and Floodland Protection ordinance. For final land divisions, these boundaries and elevations shall be field verified;

14. Boundaries and soil symbol for each soil mapping unit and the identification of all hydric soils as defined by the USDA-Natural Resources Conservation Service;

15. Locations of all available soil borings or soil profile evaluations with unique references to supplemental data report forms;

16. Location of primary and secondary environmental corridors, as defined by the Southeastern Wisconsin Regional Planning Commission. For final land divisions, these boundaries shall be field verified;

17. Location and description of isolated natural area boundaries as defined by the Southeastern Wisconsin Regional Planning Commission, woodland areas and other vegetative cover types;

18. Location and descriptive notes for existing and proposed structures within 50 feet of the property boundaries and their proposed use, including, but not limited to buildings and foundations, roads, parking areas, fence lines, access lanes, culverts (include size and type), above ground utilities and retaining walls;

19. Location and descriptive notes for other known existing site features including, but not limited to rock outcrops or other karst features, tile drains, buried utilities, dumps, landfills, manure or other waste storage facilities;

20. Boundaries and descriptive notes for all applicable setbacks and for "protective areas", as specified in sec.14-341(d)4 of this ordinance;

21. Location and descriptive notes for any existing or proposed easements, right-of-ways, vision corners or other known site restrictions. Road right-of ways and building setbacks shall be in compliance with all applicable administrative codes, adopted plans and ordinances;

22. Location and descriptive notes for existing and proposed public dedications of parcels or right-of-ways;

23. Location and descriptive notes for preplanned building or waste disposal sites, when limited by site features;

24. Location and documentation of any existing well and delineation of any applicable regulatory setbacks, in accordance with ch. NR 811 and 812 Wis. Admin. Code;

25. Notes describing source documents, date and measure of accuracy for all applicable mapping features noted above;

26. Other site information that the LRD determines is necessary to administer this ordinance.

Note: The LRD will provide the applicant with a written checklist of the above items, including guidance on which items are applicable to the proposed project. Items may need to be displayed on more than one map for purposes of clarity.

(d) *Specific Storm Water Management Plan Requirements and Performance Standards.* All storm water management plans and associated BMPs shall meet the following minimum requirements to the maximum extent practicable. It is highly recommended that the applicant meet with the LRD prior to preparing a storm water management plan to determine the applicability of these requirements early in the site planning process.

1. *Peak Discharge.*

A. *Minimum Requirement.* To minimize downstream bank erosion and the failure of downstream conveyance systems, the calculated post-development peak storm water discharge rate shall not exceed the calculated pre-development discharge rates for the 2-year, 10-year, and 100-year, 24-hour design storms. Modeling requirements for this provision are further described in sec. 14-342 below.

B. *Release Rate Per Acre.* The LRD may establish a maximum allowable release rate on a per acre basis that would supersede the requirements of sub. A. above for certain watersheds after the necessary hydrologic modeling is completed and the maximum release rate is approved by the Storm Water Advisory Committee.

Note: A detailed watershed-based hydrologic analysis can generate a more accurate peak discharge rate for the protection of downstream properties from increased flooding due to the addition of impervious surfaces. This method has been used very effectively in the Milwaukee area and other parts of the country and may be used in Waukesha County in the future.

C. *Peak Discharge Exemptions.* Certain sites or portions of sites may be exempted from the peak discharge requirements of this subsection in accordance with sub. (e) below.

2. *Total Suspended Solids.*

A. By design, each storm water management plan shall meet the following post-development total suspended solids reduction targets, based on average annual rainfalls, as compared to no runoff management controls:

i. For new land development, 80% reduction in total suspended solids load;
ii. For redevelopment, 40% reduction of total suspended solids load;
iii. For in-fill development that occurs prior to October 1, 2012, 40 % reduction total suspended solids load;
iv. For in-fill development that occurs after October 1, 2012, 80% reduction of total suspended solids load.

Note: The first flush of storm water runoff from an urban landscape contains the vast majority of pollutants, which tend to be associated with suspended solids. Pollutant loading models such as SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids under sub. A above.

3. *Infiltration.* BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following requirements, except as provided in subs. E. through H. below.

A. *Residential.* For residential developments one of the following shall be met:

i. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

ii. Infiltrate 25% of the post-development runoff volume from the 2-year, 24-hour design storm with a type II distribution. Separate runoff curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, not composite curve numbers, as prescribed in sec. 14-342. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

B. *Nonresidential.* For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:

i. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no

more than 2% of the project site is required as an effective infiltration area.

ii. Infiltrate 10% of the post-development runoff volume from the 2-year, 24-hour design storm. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, not composite curve numbers, as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

C. *Modeling.* Refer to sec. 14-342(a) for details on calculating runoff volumes and pre-development conditions.

D. *Pretreatment.* Pretreatment shall be required before infiltrating parking lot and road runoff from commercial, industrial and institutional areas. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with sub. H below. Pretreatment options may include, but are not limited to, oil/grease separators, sedimentation or bioretention basins, filtration swales or filter strips. All designs shall comply with the technical standards in sec. 14-342(b).

Note: To achieve the infiltration requirement for the parking lots or roads, "maximum extent practicable" should not be interpreted to require significant topography changes that create an excessive financial burden. To minimize potential groundwater impacts, it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollutant source areas such as parking lots.

E. *Infiltration Exclusions.* Infiltration of runoff shall not be credited toward meeting the requirements of this subsection for the following:

i. Runoff from outdoor material storage and loading docks for tier 1 and tier 2 industrial facilities, as identified in NR 216(2) Wis. Admin. Code.

ii. Runoff from fueling and vehicle maintenance areas, not including rooftops and canopies.

iii. Infiltration of runoff within 1000 feet upgradient or within 100 feet downgradient of karst features.

iv. Infiltration of runoff from any area except rooftops with less than 3 feet separation distance from the top of the filtering layer to the elevation of seasonal high groundwater or the top of bedrock.

v. Infiltration of runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from top of the filtering layer to the elevation of seasonal high groundwater or the top of bedrock.

vi. Areas within 400 feet of a community water system well as specified in

s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development, not including rooftop runoff.

vii. Areas where contaminants of concern, as defined in s. NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.

Note: The areas listed in par. E above are excluded due to the potential for groundwater contamination.

F. *Infiltration Exemptions.* The infiltration requirements of this subsection do not apply to frozen soil conditions and may be exempted if soils have a measured infiltration rate of less than 0.6 inches per hour and the LRD determines it would be impracticable to modify existing soil conditions. Other sites may be exempted in accordance with sub.(e). below.

G. *Alternate runoff uses.* Where storage and reuse of runoff are employed, such as to support green roofs, landscape watering, toilet flushing, laundry or irrigation, such alternate uses shall be given equal credit toward the infiltration volume required by this section.

H. *Groundwater protection.*

i. Infiltration systems designed in accordance with this subsection shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with Chapter NR 140 Wis. Adm. Code. However, if site-specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

ii. The discharge from BMPs shall remain below the enforcement standard at the point of standards application.

iii. No storm water BMP shall be installed that meets the definition of an injection well under Chapter NR 812 Wis. Admin. Code.

iv. All storm water BMPs shall comply with the provisions of any applicable wellhead protection plan for a community water supply under Chapter NR 811 Wis. Admin. Code.

4. *Protective Areas.*

A. *Definitions*. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the

closest impervious surface. However, in this section, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

i. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in Chapter NR 103 Wis. Admin. Code, 75 feet.

ii. For perennial and intermittent streams identified on the Waukesha County GIS system, 50 feet. If there is a discrepancy between the Waukesha County GIS system and the applicable United States Geological Survey 7.5-minute series topographic map, the more stringent stream identification shall apply.

iii For lakes, 50 feet.

iv. For highly susceptible wetlands, as determined by the LRD, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with Chapter NR 103 Wis. Admin. Code. This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

v. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

vi. In subd. A.(i), (iv) and (v), determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in Chapter NR 103 Wis. Admin. Code.

vii For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

B. *Requirements.* The following requirements shall be met for all land development activity located within a protective area:

i. Impervious surfaces shall be kept out of the protective area, except for boathouses and walkways authorized under shoreland and floodland zoning. The erosion control plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

ii. Where land disturbing activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

Note: It is recommended that seeding of non-aggressive vegetative cover be used in the protective areas. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover can be measured using the line transect method described in the University of Wisconsin Extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".

iii Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area, but shall not encroach into wetlands, floodplains or primary or secondary environmental corridors.

Note: Other regulations, such as ch. 30, Wisconsin Statutes, and chs. NR 103, 115, 116 and 117, Wis. Adm. Code, and their associated review and approval process may apply in the protective area.

C. *Protective Area Exemptions.* The protective area requirements of this subsection may be exempted in accordance with sub. (e). below and do not apply to the following:

i. Structures that cross or access surface waters such as boat landings, bridges and culverts;

ii. Structures constructed in accordance with s. 59.692(1v), Wisconsin Statutes; and

iii. Sites where runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

Note: A vegetated protective area to filter runoff pollutants from post-construction sites described in sub. 4.C above is not necessary since runoff is not entering the surface water at that location. Other practices, necessary to meet the requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants before the runoff enters a surface water of the state.

5. *Fueling and Vehicle Maintenance Areas.* Fueling and vehicle maintenance areas shall have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

Note: A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

6. *Site Drainage.* Measures shall be implemented to ensure proper site drainage, prevent

property damage and protect public health and safety, including the following minimum requirements:

A. *Drainage easement.* Perpetual drainage easements or other deed restrictions shall be recorded on the property to preserve major storm water flow paths and permanent storm water BMP locations. Covenants in these areas shall not allow buildings or other structures and shall prevent any grading, filling or other activities that interrupt or obstruct flows in any way. Covenants shall also specify maintenance responsibilities and authorities in accordance with sec. 14-343.

B. *Site grading.* Site grading shall ensure positive flows away from all buildings, roads, driveways and septic systems, be coordinated with the general storm water drainage patterns for the area, and minimize adverse impacts on adjacent properties.

C. *Street drainage.* All street drainage shall be designed to prevent concentrated flows from crossing the traffic lanes to the maximum extent practicable. Design flow depths at the road centerline for on-street drainage, shall not exceed six (6) inches during the peak flows generated by the 100-year, 24 hour design storm, using planned land use conditions for the entire contributing watershed area.

D. *Bridges and cross-culverts.* All new or modified bridges and cross-culverts shall comply with applicable design standards and regulations, facilitate fish passage and prevent increased flooding or channel erosion upstream or downstream from the structure. Design flow depths at the road centerline for all crossings shall not exceed six (6) inches during the peak flows generated by the 100-year, 24-hour design storm, using planned land use conditions for the entire contributing watershed area. All predevelopment runoff storage areas within the flow path upstream of bridges and cross-culverts shall be preserved and designated as drainage easements, unless compensatory storage is provided and accounted for in modeling. As-built documentation shall be submitted in accordance with sec.14-335 for all new or modified structures that are located within a mapped floodplain or that the LRD determines to be necessary to maintain floodplain modeling for the applicable watershed.

E. *Subsurface drainage.* Basement floor surfaces shall be built one (1) foot above the seasonal high water table elevation, as documented in the submitted soil evaluations, and shall avoid hydric soils as much as possible. The LRD shall be notified of any drain tiles that are uncovered during construction, which the LRD may require to be restored or connected to other drainage systems. No discharge of groundwater from tile lines, sump pumps or other means shall be allowed onto another persons land or any public space without the written approval of the owner or unit of government.

F. *Open channels.* All open channel drainage systems shall at a minimum be designed to carry the peak flows from a 10-year, 24-hour design storm using planned land use for the entire contributing watershed area. Side slopes shall be

no steeper than 3h:1v unless otherwise approved by the LRD for unique site conditions. Open channels that carry runoff from more than 130 acres shall at a minimum be designed to carry the peak flows from a 25-year, 24-hour design storm.

G. *Storm sewers.* All storm sewers shall be designed in accordance with applicable community technical standards and specifications.

H. *Structure protection and safety*. Flows generated by the 100-year, 24-hour design storm under planned land use conditions may exceed the design capacity of conveyance systems, but shall not come in contact with any buildings. For buildings designed for human occupation on a regular basis, the following additional requirements shall apply:

i. The lowest elevation of the structure that is exposed to the ground surface shall be a minimum of two (2) feet above the maximum water elevation produced by the 100-year, 24 hour design storm, including flows through any storm water BMP that may temporarily or permanently store water at a depth of greater than one (1) foot; and

ii. The structure shall be set back at least 50 feet horizontally from any storm water BMP that may temporarily or permanently store water at a depth of greater than one (1) foot. Setback distance shall be measured from the closest edge of water at the elevation produced by the 100-year, 24-hour design storm.

7. *Additional Requirements*. The LRD may establish more stringent requirements than the minimums set forth in this section, such as addressing thermal impacts of storm water or chronic wetness conditions, if the LRD determines that an added level of protection is needed to protect:

A. A cold water stream, outstanding water resource* or exceptional water resource**, as listed below:

i. Brandy Brook
ii. Coco Creek
iii. Genesee Creek**
iv. Jericho Creek
v. Mason Creek
vi. McKeawn Spring Creek
v. Mill Brook
vi. Mukwonago River*
vii. Oconomowoc River (between North Lake and Okauchee Lake)**
viii. Paradise Springs Creek
ix. Pebble Creek
x. Rosenow Creek
xi. Scuppernong River
xii. South Branch Scuppernong River
xiii. Spring Brook

xiv. Spring Lake*

B. An environmentally sensitive area;

C. A downstream property;

D. Public health or safety.

(e) *Technical Exemptions.*

1. *Exemption Criteria.* Following the provisions of this subsection, the LRD may exempt a site or a portion of a site from meeting certain technical requirements of this section if the LRD determines that one or more of the following applies:

A. *Off-Site BMP(s).* The requirement has been satisfied through the use of off-site BMP(s). Off-site BMPs could be installed beyond the boundaries of the property covered by the application as part of a regional storm water management plan or through other legal arrangements. However, to be eligible for this exemption, the off-site BMP(s) must treat runoff from the site covered by the application;

B. *Internally Drained Sites.* The site is internally drained and will not discharge runoff from the site after development occurs; or

C. *Site Conditions.* It is impracticable to meet the requirement due to site conditions such as slopes, soils, proximity to structures or desirable trees, limited site dimensions, surrounding land uses, the potential for groundwater contamination, public health or safety problems, or other factors beyond the control of the applicant. No site shall be entitled to an exemption under this paragraph due solely to the size of the proposed land development activity in relation to the parcel size. However, the LRD shall provide special consideration in granting exemptions under this paragraph for the following sites:

i. Redevelopment sites.
ii. In-fill development areas less than 5 acres.
iii. Highway projects where limited public right-of-way land is available for the installation of storm water BMPs.

Note: The LRD may use cooperative working agreements to administer exemptions for municipal road construction or reconstruction projects.

iv. Land developments with less than 10% of the site planned to be impervious surfaces and the total cumulative area of all impervious areas is less than 1 acre using the final build-out condition.

2. *Application for Exemption.* An exemption under sub. 1. above may only be granted by the LRD upon the applicant submitting the following items to the LRD, which shall constitute a completed application:

A. A written request describing the provisions of this subsection for which an

exception is being requested and an explanation of why;

B. A site plan in accordance with sub. (c) above, including the delineation of the area and size (in acres) to which the exemption would apply and any other storm water BMPs required to meet this ordinance or as recommended in a regional storm water management plan;

C. The necessary technical documentation to demonstrate that the site meets one or more of the criteria for which an exemption is being applied, including documentation of the applicable provisions of any regional storm water management plan that may be involved;

D. For off-site BMP(s) under sub. 1.A. above:

i. Documentation that the necessary BMP(s) have been properly installed, including as-built plans, construction certification and design summaries in accordance with sec. 14-335(d);

ii. A copy of the recorded maintenance agreement in accordance with sec. 14-343, and any other easements or legal arrangement that may be involved to ensure the long-term maintenance of the off-site BMP(s).

iii. Documentation of payment of any applicable fees that may be required by a unit of governmental charged with implementing a regional storm water management plan.

Note: Fees may be through a storm water utility district or other unit of government and would usually be based on an equitable distribution of costs for land acquisition, engineering design, construction, certification and maintenance of storm water BMPs implemented through the regional storm water management plan.

E. Other materials that the LRD determines to be necessary to make a determination under this subsection or to comply with this ordinance.

3. *Review Procedure.* The LRD shall review all exemption application materials submitted under sub. 2 above, determine compliance with this section and notify the applicant of a decision within 20 working days of the submittal date, in accordance with the procedures under sec. 14-334(f) above. The LRD Manager shall approve all exemptions under sub. 1.C. above. In consideration of all exemption requests, the LRD shall ensure that the applicant meets the requirements of this section to the maximum extent practicable.

4. *Exemption Fee.* For those sites that are exempted under this subsection, and are not publicly funded, the applicant shall pay a fee to the LRD to be used exclusively for storm water BMP implementation or stream restoration expenses within the same watershed, community or county. The fee amount shall be based on the average costs for the typical BMP(s) that would have been required on-site to comply with the requirements of this section had an exemption not been granted. The LRD shall publish a fee schedule for this purpose, to be periodically updated to reflect current BMP costs.

5. *Appeal.* If the applicant does not agree with any determination of the LRD under this

subsection, the applicant may appeal the decision pursuant to the procedures in sec. 14-345(c).

(f) *Preliminary Storm Water Management Plan Requirements.* Preliminary storm water management plans shall contain the following applicable items:

1. Drafting date and contact information for the project engineer with all other mapping elements and scale consistent with the site plan map;

2. Delineation of existing and proposed watersheds, subwatersheds and major flow paths within the site and draining into the site from adjacent properties;

3. Location, type and preliminary design of proposed storm water BMPs needed to comply with this ordinance;

4. Location and type of major storm water conveyance systems proposed for the site;

5. Existing and proposed storm water discharge points;

6. Location and preliminary dimensions of proposed drainage easements;

7. Location of soil borings and soil profile evaluations with surface elevations and unique references to supplemental data sheets, as needed to determine feasibility of any proposed storm water BMP and to comply with applicable BMP technical standards;

Note: The required location, depth and type of soil evaluations will depend on the storm water BMPs proposed for the site. In general, soil profile evaluations usually need to extend to a depth of 3-10 feet below the proposed bottom elevation of storm water BMPs. Refer to BMP technical standards for details.

8. Preliminary location of access lanes for maintenance of storm water BMPs;

9. Support documentation for the plan reviewer, including:

   A. A preliminary plan narrative describing site drainage, ultimate receiving water body for off-site discharges, major site restrictions, and how the preliminary storm water management plan will meet the requirements of this ordinance and other objectives identified by the project engineer;

   B. Summary of watershed, subwatershed and land use data in acres and the preliminary results of any hydrology calculations;

   C. Soil profile evaluation data in accordance with BMP technical standards;

   D. Proposed ownership and maintenance responsibilities for all proposed storm water BMPs.

Note: Mapping elements may be included in the site plan map.

(g) *Final Storm Water Management Plan Requirements.* Final storm water management

plans shall contain the following applicable items:

1. Drafting date and contact information for the project engineer, with all other mapping elements and scale consistent with the site plan map;

2. Location of existing and proposed storm water discharge points;

3. Delineation and labeling of all proposed impervious areas and accompanying area computations;

4. Final design drawings of all proposed storm water BMPs with unique references to support documentation, prepared in accordance with minimum LRD standards and of sufficient clarity for those responsible for site grading, including:

    A. Plan views showing the location of proposed BMPs in combination with the site plan map at a scale of 1 inch equals no more than 100 feet;

    B. Additional detail plan view drawings at a scale of 1 inch equals no more than 40 lineal feet, showing proposed 2 foot contours and all critical design features and elevations;

    C. Detailed cross-sections and profiles of each BMP showing all critical design features, side slopes, structures, soil profiles and applicable elevations, including seasonal high water table;

    D. Detailed drawings or material specifications for inlets or outlets.

5. Type, size, location and cross-sections of all pipes, open channels, grade stabilization structures and other proposed storm water conveyance systems, with unique references to support documentation;

6. Location and dimensions of proposed drainage easements;

7. Location, dimensions and surfacing material or soils data of proposed access lanes and delineation of easements needed to allow future maintenance of all storm water BMPs in accordance with sec. 14-343(b) below. The minimum width of any access easement shall be 15 feet;

8. Location of soil borings and soil profile evaluations with surface elevations and unique references to supplemental data sheets, as needed to determine feasibility of any proposed storm water BMP and to comply with applicable technical standards;

9. Detailed construction notes explaining all necessary procedures to be followed to properly implement the plan, including planting and landscaping specifications, timing and sequencing of construction and any temporary measures needed to protect BMPs during the construction phase;

Note: Some BMPs, such as infiltration and bioretention practices, are susceptible to sedimentation and may need to be protected during construction or planned for construction later in the project sequence.

10. A detailed construction inspection plan, outlining the critical elements in the plan that need to be surveyed or inspected by a representative of the project engineer, the LRD or the municipality, and the timing and notification requirements involved.

Note: Examples of critical elements for a construction inspection plan include, but are not limited to: checking subgrade elevations or the placement of footings, pipes or other structures prior to covering, soil testing, material inspections and final grade checks before seeding. Any inspections conducted by the LRD or the municipality does not waive the permit holder's responsibility for construction oversight and verification.

11. A final storm water BMP maintenance agreement in accordance with sec. 14-343;

12. Support documentation summarized in accordance with LRD standards, including but not limited to:

    A. A narrative summary of the storm water management plan, briefly explaining any unique information that led to the selection of BMPs, how the proposed plan meets the guiding principles under sub. (b) above, and the specific storm water planning requirements under sub. (d) above.

Note: The narrative can be combined with the narrative for erosion control planning under sec. 14-340 above. Some provisions may also be included in the construction notes under sub. 9. above.

    B. Maps of existing and proposed watersheds, subwatersheds, Tc/Tt flow paths, soil types, hydrologic soil groups, land uses/cover type and accompanying runoff curve numbers within the site and draining into the site from adjacent properties, with unique references to hydrology data summaries and a description of the ultimate receiving water body(s) for off-site discharges;

    C. Pre-development and post-development hydrology and pollutant loading (if applicable) data for each watershed, such as peak flows and runoff volumes, as needed to meet the requirements of this ordinance. All major assumptions used in developing input parameters shall be clearly stated and cross-referenced to the maps under par. B. above;

    D. Impervious surface maps and calculations of runoff volumes and effective infiltration areas, in accordance with sub. (d).3. above.

    E. Hydraulic and hydrologic data summaries for all existing and proposed pipes, open channels, grade stabilization structures and other storm water conveyance systems, and the necessary documentation to demonstrate compliance with the site drainage requirements under sub. (d).6. above.

    F. BMP design data for each proposed BMP, showing how it complies with applicable technical standards and the requirements of this ordinance;

    G. Soil evaluation reports, following the standards in sec. 14-342(e), with matching references to map features showing their location and elevations;

    H. A cover sheet stamped and signed by a professional engineer registered in the

State of Wisconsin indicating that all plans and supporting documentation have been reviewed and approved by the engineer and certifying that they have read the requirements of this ordinance and that, to the best of their knowledge, the submitted plans comply with the requirements

I. Cost estimates for the installation of proposed storm water BMPs, which shall serve as a basis for the financial assurance under sec. 14-335(c) above. The applicant may use average costs for BMP installations in the county rather than specific estimates, upon approval by the LRD.

J. For sites where changes are proposed in storm water flow paths, or where proposed storm water discharges may otherwise have a significant negative impact on downstream property owner(s), the LRD may require the applicant to submit written authorization or complete other legal arrangements with the affected property owner(s); and

13. Other items deemed necessary by the LRD to ensure compliance with the requirements of this ordinance.

(Ord. No. 159-120, 3/22/05)

Sec. 14-342 Technical Standards and Specifications.

(a) *Hydrologic and Hydraulic Computations.*

1. *Models.* All computations of runoff volumes and peak flow rates used in the development of erosion control and storm water management plans in accordance with this ordinance shall be based on United States Department of Agriculture - Natural Resources Conservation Service (NRCS) methodology. Models such as SLAMM, P8 or other LRD approved models may be used to evaluate the efficiency of the design in reducing total suspended solids to meet this ordinance. Models such as RECARGA or other LRD approved models may be used to evaluate the efficiency of the design in meeting the infiltration requirements of this ordinance.

2. *Rainfall depths.* To determine compliance with this ordinance, the following design storm rainfall depths shall be used, which are derived from NRCS publications and extrapolated for Waukesha County:

Design Storm	1-year 24-hour	2-year 24-hour	10-year 24-hour	100-year 24-hour
Rainfall Depth	2.3 inches	2.7 inches	4.0 inches	5.6 inches

3. *Runoff curve numbers.* All computations of pre-development conditions as specified in this ordinance shall use those NRCS runoff curve numbers assigned for a "good" hydrologic condition for each land cover type. For lands where the pre-development land use was cropland, the following NRCS curve number values shall be used as maximums:

Soil Hydrologic Group	A	B	C	D
NRCS Runoff Curve Number	56	70	79	83

Note: Soil hydrologic groups are available from the LRD and can be found on the county GIS System.

4. *Average annual rainfalls.* All modeling involving average annual rainfall or runoff volumes shall use rainfall data from the Milwaukee area between March 28 and December 6, 1969 as the typical annual rainfall pattern for Waukesha County.

Note: A copy of the rainfall data noted above is available from the LRD.

5. *Rainfall distribution.* All peak flow calculations shall use Type II rainfall distribution patterns, as defined in NRCS methodologies.

6. *Other methods.* All velocity and peak flow computations for open channels and storm sewer pipe flows shall be based on Manning's Formula. Flow routing, culvert design, weir and orifice flow and other related hydraulic computations used to design storm water management facilities shall be based on standard applicable engineering formulas. Any design data or methodology proposed to be used for hydrologic or hydraulic computations other than those prescribed in this ordinance shall be approved by the LRD. Revisions or updates to the rainfall depths and distribution prescribed above may be allowed upon approval by the applicable regulatory agencies, the Storm Water Advisory Committee and the LRD.

(b) *Best Management Practice (BMP) Design Standards.*

1. The design, installation and maintenance of all BMPs used to meet the requirements of this ordinance shall comply with the technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of ch. NR 151, Wis. Adm. Code.

2. Where BMP standards have not been identified or developed under sub. 1 above, the LRD may approve the use of other available standards, such as those from other states or the USDA-Natural Resources Conservation Service.

(c) *Technical Guidelines.* The LRD may adopt technical guidelines to facilitate the consistent administration of certain provisions of this ordinance. The LRD shall seek the expertise and input from the Storm Water Advisory Committee and other agencies in the development and maintenance of technical guidelines under this subsection.

Note: Examples of technical guidelines that the LRD has published in the past include sample storm water BMP maintenance agreements, channel & slope stabilization design charts, hydrology and BMP design data summary tables, as-built survey specifications, outlet design guidance, sample cross-sections and sample storm water management plan documents.

(d) *Construction Specifications.* The construction or installation of all BMPs and BMP components shall comply with all applicable manufacturers and industry standards and specifications, including but not limited to those published by ASTM and the USDA - Natural Resources Conservation

Service (NRCS).

(e) *Soil Evaluations.* All soil profile evaluations and forms submitted for review by the LRD under the provisions of this ordinance shall be completed in accordance with Chapter COM 85 Wis. Admin. Code and any applicable standards under sub. (b) above. Where there are no specific standards for the number, location or depth of soil profile evaluations for a proposed BMP, the LRD shall determine the minimum requirements based on the design of the BMP and the likely variability of the on-site soils.

(f) *Availability*. Copies of all technical references made in this section shall be available for review and distribution through the LRD office during normal business hours, or over the Internet. Fees may be charged for hard copies of these items.

(g) *Future Revisions or Updates.* The technical references in this section are made a part of this ordinance and shall be updated periodically in order to keep current with field experiences, research, technological advances and the development of related technical standards by other agencies and units of government. Any future revisions of the documents incorporated herein are also made part of this ordinance unless otherwise acted upon by the LRD.

(Ord. No. 159-120, 3/22/05)

Sec. 14-343 Maintenance of Storm Water BMPs.

(a) *Maintenance Agreement Required.* A maintenance agreement shall be required for all permanent storm water BMPs installed to comply with the requirements of this ordinance. The maintenance agreement shall be independent of all other restrictions or covenants and shall comply with all provisions of this section.

(b) *Agreement Provisions.* The maintenance agreement shall, at a minimum, contain the following information and provisions:

1. *Ownership.* Identification of the owner(s) of the land parcel(s) where the storm water BMP(s) is located. Ownership shall be the same as those assigned maintenance responsibilities under sub. 6. below, unless otherwise designated in a regional storm water management plan and approved by the applicable unit(s) of government. For subdivisions, all storm water BMPs that collect runoff from more than one lot shall be located on outlots. For all privately owned outlots, ownership shall be by proportional undividable interest for all properties that are within the control of the applicant and drain to the BMP. However, the applicant may combine ownership of more than one BMP within the site.

2. *Location.* A legal description and survey map of the storm water BMP location(s), showing associated drainage or access easements required to maintain the BMP.

3. *Design.* Detailed drawings of each storm water BMP and a general description of its purpose and design, including but not limited to BMP dimensions and elevations, inlet and outlet designs and elevations and the drainage area served by the BMP. If possible, use as-built survey information.

Note: As-built information may not yet be available for new land divisions, depending on the timing of recording. In this case, use design information. See sub. (c)3. below for details on recording procedures.

4. *Maintenance plan.* A description of all long term maintenance activities that will likely be required for each BMP included in the agreement, and an estimated time interval between each activity.

5. *Access.* Authorization for vehicle access, including a minimum 15-foot wide access easement dedicated to the local municipality and connecting to a public road right-of-way, to allow for future BMP maintenance work. The access easement shall be of adequate soil conditions or surfacing to withstand loads produced by standard construction equipment, and shall not include any area where channelized flow of runoff occurs or where storm water may pond to a depth greater than six (6) inches during a 100-year, 24-hour design storm.

6. *Maintenance responsibility.* Identification of the person(s), organization, municipality or other entity responsible for long-term maintenance of the storm water BMP. The assignment of maintenance responsibilities for a privately owned storm water BMP shall, at a minimum, include all properties that are within the control of the applicant and drain to the BMP. However, the applicant may combine the maintenance responsibilities of more than one BMP within the site.

7. *Inspections.* Authorization for access to the property by representatives of the local municipality or their designee and Waukesha County to conduct inspections of the BMP, monitor its performance and maintenance, and notify the designated entity when maintenance or repair activities are necessary. A statement shall also be included that says, upon written notification by the local municipality or their designee, that the entity under sub. 6. above shall, at their own cost and within a reasonable time period, have a BMP inspection conducted by a qualified professional, file a report and complete any maintenance or repair work recommended in the report.

8. *Municipal maintenance.* Authorization for the local municipality or their designee to carry out any maintenance activities and associated inspections if the entity identified under par. 6 above does not perform the required activity within the specified time period in the notification or if the local municipality does not accept the work conducted by the designated entity.

9. *Special assessment.* A statement that the applicable local unit of government may exercise their statutory authority to levy and collect a special assessment or charge pursuant to subch. VII of ch. 66 Wisconsin Statutes, or §60.627, Wisconsin Statutes for towns, for any services carried out relating to sub. 7 or 8 above.

10. *Binding agreement.* A statement confirming that the entire agreement shall remain binding on all subsequent owners of the property upon which the storm water BMP is located and that the restrictions shall run with the land and on any other property which is subject to maintenance responsibility in the agreement.

11. *Agreement modifications.* Sole authorization for the unit of government named under

sub. 9. above to modify the provisions of the agreement upon 30-day notice to the current owner(s) and other parties responsible for maintenance of the storm water BMP. Any changes made to the agreement shall maintain the minimum items listed in this subsection and ensure the long term maintenance of the BMP.

12. *Other*. Other information as determined to be necessary by the LRD to ensure compliance with this ordinance.

Note: Many of the above noted activities may be carried out in accordance with an intergovernmental working agreement under s. 66.0301 Wisconsin Statutes.

(c) *Agreement Form, Approval and Recording.*

1. *Form.* The LRD shall provide the applicant with sample maintenance agreement forms that comply with the requirements of this section.

2. *Approval.* The LRD shall review and approve the form and content of all maintenance agreements proposed under this ordinance and ensure compliance with all provisions of this section. If the agreement does not comply, the LRD shall notify the applicant what changes are needed in order to comply, in accordance with the plan review procedures in sec. 14-334(f) above.

3. *Recording.* Upon certification of compliance with subs. 1. and 2. above by the LRD, the maintenance agreement shall be recorded at the Waukesha County Register of Deeds referencing any plat, certified survey or other ownership transfer device pertaining to land which contains the subject storm water BMP or is subject to maintenance responsibility in the approved agreement. For new land divisions, the recording of the maintenance agreement shall occur simultaneously with the recording of the land division. However, no storm water BMP maintenance agreement shall be recorded prior to LRD approval. The LRD may require that the County Zoning Administrator or the LRD record the agreement.

4. *Copy.* The permit holder shall provide a copy of the recorded agreement, including evidence of the actual recording(s), to the LRD as a condition of release of the financial assurance under sec. 14-335(c) above.

(d) *Maintenance Responsibilities Prior to a Maintenance Agreement.* The permit holder and other responsible party shall be responsible for the maintenance of all storm water BMPs prior to permit termination under sec. 14-335(b).

(Ord. No. 159-120, 3/22/05)

Sec. 14-344 Illicit Discharges.

(a) *Prohibitions.*

1. *Discharges.* Except for storm water and other discharges specifically exempted under sub. (b) below, no discharge, spilling or dumping of substances or materials shall be allowed into receiving water bodies or onto driveways, sidewalks, parking lots or other

areas that drain into the storm drainage system.

2. *Connections.* The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this ordinance, regardless of whether the connection was permissible under law or practice applicable or prevailing at the time of connection.

(b) *Exemptions.* The following activities are exempt from the provisions of this section unless found to have an adverse impact on the storm water:

1. Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.

2. Discharges resulting from fire fighting activities.

3. Discharges from uncontaminated ground water, potable water source, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been dechlorinated.

(c) *Notice of Violation.* Whenever the LRD finds a violation of this section, the LRD may order compliance by written notice of violation to the responsible party. Such notice may require without limitation:

1. The elimination of illicit connections or discharges;

2. That violating discharges, practices, or operations shall cease and desist;

3. The abatement or remediation of storm water pollution or contaminated hazards and the restoration of any affected property;

4. Any responsible party that fails to comply with a notice of violation under this section, shall be subject to further enforcement action under the provisions of sec. 14-345 below.

(Ord. No. 159-120, 3/22/05)

Sec. 14-345 Enforcement.

(a) *Prohibited Practices.* Not complying with any requirement of this ordinance shall be deemed a violation, and shall subject the responsible party to enforcement action under this section. Prohibited practices shall include but not limited to the following:

1. Commencing any land disturbing or land development activity prior to:

   A. Obtaining a storm water permit;

   B. Notifying the LRD a minimum of 2 working days in advance for sites that have obtained a storm water permit; or

C. Installing those BMPs identified in the approved plans to be installed prior to any land disturbing or land developing activity.

2. Failing to apply for a LRD preliminary storm water review letter in accordance with subsection 14-334(b) of this ordinance.

3. Failing to obtain LRD certification of compliance for a final plat or certified survey map in accordance with subsection 14-334(d) of this ordinance.

4. Failing to comply with all permit conditions, erosion control or storm water management requirements and approved plans in accordance this ordinance.

5. Failing to maintain BMPs until permit termination.

6. Failing to comply with any notice of violation.

(b) *Violations.* The LRD shall notify the permit holder of any violation in writing, and copy any other known responsible party involved in the violation. The written notice shall be hand delivered to the permit holder or sent to the last known address, with a reasonable attempt to verify that the permit holder received it. The notice shall describe the violation, remedial action(s) needed and a schedule for all remedial action to be completed. Any enforcement measures shall continue until compliance is achieved or as ordered by the court. The LRD is authorized to use the following methods of enforcement in any combination thereof against any applicant or responsible party that is found to be in violation of any provision of this ordinance:

1. *Forfeiture.* Any violator shall be subject to a forfeiture of not less than $100 or more than $1000 plus the cost of prosecution for each violation. Each day that a violation exists shall constitute a separate offense.

2. *Stop Work Order.* Any violator is subject to an order to stop all work except that which is needed as a corrective action to bring the site into compliance.

3. *Permit Revocation.* The LRD may revoke a permit issued under this ordinance. Upon loss of the permit, all construction shall cease and the site shall be stabilized, with any costs incurred by the County to be charged against the financial assurance.

4. *Injunction.* The County, or any person affected by activities regulated under this ordinance, may enforce the provisions of this ordinance by a temporary restraining order, injunction and other such relief as a court may order.

5. *Declared nuisances.* Any land disturbing or land development activity carried out in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se, and the county may apply to any court of competent jurisdiction to restrain or abate such nuisance.

6. *Emergency Action.* The LRD may enter upon the property and take any necessary emergency action if the LRD determines that the site in violation is an immediate threat to public health, safety, welfare, the environment or downstream property, or if the

permit holder or other violator refuses to take the corrective action as ordered by the LRD. Any cost incurred by the LRD as a result of this action shall be billed to the permit holder or other responsible party or subtracted from the financial assurance. The LRD shall provide reasonable notice to the permit holder and other responsible party after exercising this authority.

7. *Citation.*

A. The County elects to also use the citation method of enforcement under Section 66.0113 of the Wisconsin Statutes for violations of this ordinance, including those for which a statutory counterpart exists. The procedures contained in Section 66.0113(3) of the Wisconsin Statutes, relating to the options of an alleged violator and default are adopted and incorporated herein by reference.

B. Authority to issue a citation under this ordinance shall be limited to the LRD Manager or his/her designee. The authority delegated to such official or employees to issue citations may only be granted or revoked by the County Board. This subsection does not preclude the County or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance regulation or order.

C. The schedule of cash deposits including penalty assessment, jail assessment, crime lab assessment, drug/law enforcement assessment, any applicable domestic abuse or consumer information assessments or any other assessment applicable by law for use with citations issued under this section shall be as adopted by the County Board from time to time and such schedule shall be on file in the Offices of the Sheriff, LRD, County Clerk and Clerk of Court and receipts shall be given for cash deposits. The citation shall contain the following information:

i. The name and address of the alleged violator.
ii. The factual allegations describing the alleged violation.
iii. The time and place of the offense.
iv. The section of the ordinance violated.
v. A designation of the offense in such a manner as can be reasonably understood by a person making a reasonable effort to do so.
vi. The time at which the alleged violator may appear in court.
vii. A statement which, in essence, informs the alleged violator:

- That a cash deposit based on the schedule established by the County Board, from time to time, and on file in the office of the County Clerk, be made to and deposited with the Clerk of the Waukesha County Circuit Court or the Sheriff's Department prior to the time of the scheduled court appearance.

- That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned or the citation requests a court appearance.

- That if a cash deposit is made and the alleged violator does not

appear in court, he will be deemed to have entered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment crime lab assessment and drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments of, if the court does not accept the plea of no contest, a summons will be issued commanding him or her to appear in court to answer the complaint.

- That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment or an action may be commenced to collect the forfeiture, penalty assessment, jail assessment, crime lab assessment and drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments.

- That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered.

viii. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under sub. 7. above has been read. Such statement shall be sent or brought with the cash deposit.

ix. Such other information as the County deems necessary.

(c) *Appeals*.

1. *Authority*. The Board of Adjustment shall act as the review and appeal authority for any order, requirement, decision or determination by the LRD under this ordinance.

2. *Procedure*. The rules, procedures, duties and powers of the Board of Adjustment shall be as provided in the County Code of Ordinances and the provisions of §59.694, Wisconsin Statutes shall apply to any review or appeal under this ordinance.

3. *Variances*. Upon appeal, the Board of Adjustment may authorize variances from the provisions of this ordinance which are not contrary to the public interest or the purposes of this ordinance, and where owing to special conditions beyond the control of the applicant, a literal enforcement of this ordinance will result in unnecessary hardship.

4. *Who May Appeal*. Appeals to the Board of Adjustment may be taken by any aggrieved person or by an officer, department, board, or bureau of the County affected by any decision of the LRD.

(Ord. No. 159-120, 3/22/05)

Sec. 14-346 Validity

(a) *Repeal of Conflicting Ordinances.* This ordinance repeals all provisions of an ordinance previously enacted under s. 59.693, Wis. Stats. relating to construction site erosion control and storm water management regulations. Wherever there may be a conflict with other county ordinances relating to erosion control, storm water management or site drainage, the more restrictive provision shall apply, as determined by the LRD.

(b) *Declaration of severability.* The several sections, subsections and paragraphs of this ordinance are hereby declared to be severable. If any section, subsection, or paragraph or subparagraph of this ordinance shall be declared by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of the ordinance, or of the section of which the invalid portion or paragraph may be a part.

(Ord. No. 159-120, 3/22/05)

Secs. 14-347 - 14-399 Reserved.

ARTICLE IX. ANIMAL CONTROL

Sec. 14-400 Rabies control program adopted.

Section 95.21, "Rabies Control Program," Wisconsin Statutes, as from time to time amended, is hereby adopted by reference and made part of this Code.

(Ord. No, 148-72, 10-26-93)

Sec. 14-401 Current license required for dogs under quarantine.

Any dog quarantined under the authority of Section 95.21, Wisconsin Statutes, which does not have a current license from an appropriate local municipality, may subject the owner of the dog to a fifty dollar ($50.00) late payment fee, payable to the local treasury of the appropriate town, village or city, if the owner does not license the dog by the end of the period of quarantine.

(Ord. No. 148-72, 10-26-93)

Secs. 14-402 - 14-409 Reserved.

ARTICLE X. HEALTH-RELATED REGULATIONS AND LICENSES

Sec. 14-410 Wisconsin Administrative Code provisions adopted by reference.

The following Wisconsin Administrative Code Chapters, as from time to time amended, are hereby adopted by reference and made part of this article as if fully set forth herein:

HFS 196,	Restaurants;
HFS 197,	Bed and Breakfast;
HFS 195,	Hotels and Tourist Rooming Houses;
HFS 178,	Campgrounds and Camping Resorts;
HFS 172,	Safety, Maintenance and Operation of Public Swimming Pools;
HFS 175,	Recreational and Educational Camps.

(Ord. No. 147-15, § 1(A), 6-9-92; Ord. No. 160-26, §4, 7-26-05)

Sec. 14-411. Definitions.

For the purposes of this article:

Category 1 restaurant shall mean a restaurant having individually wrapped, hermetically-sealed single food servings with preparation limited to heating and serving with single service utensils. Examples: Taverns, motels, and amusement arcades.

Category 2 restaurant shall mean a restaurant which may serve potentially hazardous foods where there is a rapid turnover between food preparation and food service. Holding of hot and cold potentially hazardous food is restricted to single meal service. Examples: Fast food restaurants, submarine sandwich restaurants, pizza parlors, taverns with grills, and coffee shops.

Category 3 restaurant shall mean a restaurant serving potentially hazardous foods that require extensive food preparation, which may include manual handling, cooling, reheating, holding of hot and cold potentially hazardous food, transportation of hot or cold ready-to-eat meals, and preparation of food several hours or days before service. Examples: Full menu restaurants, caterers, delicatessens, and institutional food service.

Department shall mean the department of health and human services or any alternate county department designated by the department of health and human services to endorse health related ordinances.

Partial inspection shall mean a follow-up inspection of the facility for specific critical violations noted in a routine inspection, reinspection or complaint follow-up inspection.

Preinspection means the inspection performed by the department prior to licensing when there is a change of owner and/or operator of an entity regulated by this article and prior to licensing and opening of a new entity regulated by this article.

Reinspection shall mean a complete inspection of the facility due to non-complying conditions noted in a routine inspection or complaint follow-up inspection where the facility fails to meet established standards.

Temporary restaurant inspection shall mean an inspection of a temporary restaurant where a current and valid permit has been issued by the state or another agent of the state.

(Ord. No. 148-91, § 1, 11-29-93)

Sec. 14-412 Licensing.

(a) Before being opened for public use, each entity in the county regulated by this article shall be

licensed in accordance with this article. Application for licensure shall be made on forms provided by the department.

(b) Upon application by the owner or agent and submission of the preinspection fee, the license fee, the tax key number of the property, and documentation of zoning and/or conditional use approval from the Waukesha County Parks and Land Use Department for premises located in areas of Waukesha County where the park and planning department has authority to impose and enforce zoning regulations, a license may be issued provided the preinspection of the premises indicates reasonable compliance with the requirements of the applicable Administrative Code chapters adopted by this article.

(c) Licenses granted pursuant to this article shall expire on June 30 of each year.

(d) A license granted pursuant to this article may be suspended or revoked due to violations of this article.

(e) Copies of plans shall be submitted to the department prior to the construction, remodeling or renovation of any entity regulated by this article.

(Ord. No. 147-15, § 1(C), 6-9-92; Ord. No. 148-41, § 1, 8-10-93)

Sec. 14-413 Fees.

(a) Fees shall be determined by the department within parameters determined by the county board in the budget for the department. Fee schedules shall be filed in the department and in the office of the county clerk.

(b) Fees will be imposed for the following:

1. Preinspections.
2. Annual licenses.
3. Penalties.
4. Duplicate licenses.
5. Reinspections.
6. Partial inspections.
7. Temporary restaurant inspections.

(c) Preinspection fees shall be nonreturnable, nontransferable and nonprorated.

(d) Annual license fees shall be nonreturnable, nontransferable and nonprorated.

(e) A penalty fee, which may include costs to the county to cover collection, shall be required whenever the annual fee for renewal is not paid prior to the expiration of the license.

(f) A penalty fee shall be required whenever the annual fee for renewal is not paid prior to the expiration of the license.

(g) An additional penalty fee shall be required whenever operations are continued after written notification of license suspension or revocation.

(h) Licenses are nontransferable either from one (1) entity to another or from one (1) person to

another. It is the responsibility of the licensee to notify the department in writing when a change in owner occurs and also supply the department with the names and post office addresses of any new owners.

(i) Category 1, Category 2, and Category 3 restaurants shall have different license and prelicensing fees.

(j) Licensing contingent on payment of fees. The department may not issue or renew an establishment license unless the license applicant pays all fees which are due and payable under this section.

(Ord. No. 147-15, §1(D), 6-9-92; Ord. No. 148-91, § 2, 11-29-93; Ord. No. 157-2, § 1)

Sec. 14-414 Enforcement.

(a) Section 254.85, Wisconsin Statutes, is adopted by reference.

(b) It shall be the duty of the director of the department, or the director's designee, to enforce the provisions of this article relating to the regulation of restaurants, bed and breakfast establishments, hotels and motels, campgrounds, recreational and educational camps, and public swimming pools. For the purpose of inspection and enforcement, the department shall have access to establishments during reasonable hours. In the event any operator of any establishment refuses entry for inspection purposes, the department may obtain a special inspection warrant under section 66.0119 of the Wisconsin Statutes. The director or the director's designee shall enforce violations of this article through the office of the corporation counsel.

(Ord. No. 147-15, §1(E), 6-9-92; Ord. No. 160-26, 07/26/2005.)

Secs. 14-415 - 14-429 Reserved.

ARTICLE XI. MOBILE HOME PARKS AND RETAIL FOOD ESTABLISHMENTS

Sec. 14-430 County authority.

Wisconsin Administrative Code ATCP 75, "Retail Food Establishments," as from time to time amended, is hereby adopted by reference and made part of this article as though fully set forth herein.

(Ord. No. 147-43, § 1(A), 7-28-92; Ord. No. 148-91, § 3, 11-29-93; Ord. No. 160-26, §6, 7-26-05)

Sec. 14-431 Definitions.

For purposes of this article:

Department shall mean the Department of Parks and Land Use.

Partial inspection shall mean a follow-up inspection of the facility for special critical violations noted in a routine inspection, reinspection or complaint follow-up inspection.

Preinspection means the inspection performed by the department prior to licensing when there is:

1. The opening of a new food establishment;
2. A change of operator of a licensed retail food establishment; or,
3. The addition of a new category of food processing operations to a retail food license.

Reinspection shall mean a complete inspection of the facility due to non-complying conditions noted in a routine inspection or complaint follow-up inspection where the facility fails to meet established standards.

Temporary retail food establishment inspection shall mean an inspection of a temporary retail food establishment where a current and valid permit has been issued by the state or another agent of the state.

(Ord. No. 147-43, § 1(B), 7-28-92; Ord. No. 148-91, § 4, 11-29-93; Ord. No. 160-26, §7, 7-26-05)

Sec. 14-432 Licensing.

(a) Before being opened for public use, each retail food establishment in Waukesha County shall be licensed in accordance with requirements of Wisconsin Administrative Code, ATCP 75, "Retail Food Establishments." Application for licensure shall be made on forms provided by the department.

(b) Upon application by the owner and/or operator and submission of the preinspection fee and the license fee, the tax key number of the property and documentation of zoning and/or conditional use approval from the Waukesha County Park and Planning Department for premises located in areas of Waukesha County where the park and planning department has authority to impose and enforce zoning regulations, a retail food establishment license may be issued provided the preinspection of the premise indicates reasonable compliance with the requirements of ATCP 75, Wisconsin Administrative Code.

(c) Licenses granted under this article shall expire on June 30 each year.

(d) Licenses granted under this article may be suspended or revoked due to violations of this article.

(e) Copies of plans shall be submitted to the department prior to the construction, remodeling, or renovation of a retail food establishment.

(Ord. No. 147-43, § 1(C), 7-28-92; Ord. No. 148-41, § 2, 8-10-93; Ord. No. 160-26, §8, 7-26-05)

Sec. 14-433 Inspections.

The department may at reasonable hours enter and inspect any unlicensed retail establishment where foods are held for sale.

(Ord. No. 147-43, § 1(D), 7-28-92; Ord. No. 160-26, §8, 7-26-05)

Sec. 14-434 Fees.

(a) Fees shall be determined by the department within parameters determined by the county board in the budget for the department. Fee schedules shall be filed in the department and in the office of the county clerk.

(b) Fees will be imposed for the following:

1. Preinspections.
2. Annual licenses.
3. Penalties.
4. Duplicate licenses.
5. Reinspections.
6. Partial inspections.
7. Temporary retail food establishment inspections.

(c) Preinspection fees shall be nonreturnable, nontransferable and nonprorated.

(d) Annual license fees shall be nonreturnable, nontransferable and nonprorated.

(e) A penalty fee, which may include costs to the county to cover collection, shall be required whenever the annual fee for renewal is not paid prior to the expiration of the license.

(f) A penalty fee shall be required whenever the annual fee for renewal is not paid prior to the expiration of the license.

(g) An additional penalty fee shall be required whenever operations are continued after written notification of license suspension or revocation.

(h) Licenses are nontransferable either from one (1) entity to another or from one (1) person to another. It is the responsibility of the licensee to notify the department in writing when a change in owner occurs and also supply the department with the names and post office addresses of any new owners.

(i) *Licensing contingent on payment of fees.* The department may not issue or renew an establishment license unless the license applicant pays all fees which are due and payable under this section.

(Ord. No. 147-43, §1(E), 7-28-92; Ord. No. 148-91, § 6, 11-29-93; Ord. No. 157-2, §1, 5/17/02)

Sec. 14-435 Enforcement.

(a) Section 254.85, Wisconsin Statutes, is adopted by reference.

(b) It shall be the duty of the director of the department, or the director's designee, to enforce the provisions of this section relating to the regulation of retail food establishments. For the purpose of inspection and enforcement, the department shall have access to establishments during reasonable hours. In the event any operator of any establishment refuses entry for inspection purposes, the department may obtain a special inspection warrant under section 66.0119 of the Wisconsin Statutes. The director or the

director's designee shall enforce violations of this article through the office of the county corporation counsel.

(Ord. No. 147-43, § 1(F), 7-28-92; Ord. No. 160-26, §8, 7-26-05)

Secs. 14-436 - 14-449 Reserved.

ARTICLE XII. COUNTY WIDE HUMANE OFFICER PROGRAM

Sec. 14-450 Purpose and Intent.

The purpose of this article is to adopt and implement a Humane Officer program in Waukesha County in accordance with uniform statewide standards under s. 95.21, Wis. Stats. and Chapters 173, 174, and 951 Wisconsin Statutes.

Sec. 14-451 Statutory Authority.

This article is adopted under the authority of ss. 59.51 and 173.03 Wisconsin Statutes. Chapter 173, Animals; Humane Officers, Wisconsin Statutes, and Chapter ATCP 15, Humane Officer Training and Certification, Wisconsin Administrative Code, are hereby adopted and made part of this code.

Sec. 14-452 Definitions.

In this article:

"Bodily Harm" means physical pain or injury or any impairment of physical condition.

(a) "Dangerous Animal" means any animal that bites, scratches or attacks in a menacing fashion, or otherwise injures humans, domesticated or other animals without provocation, causing bodily harm; and has a history of attacking, biting or injuring humans or any domesticated or other animals.

(b) "Direct Control" means immediate and continuous physical control of an animal at all times; such as by means of a fence, leash, cord, or chain of sufficient strength to restrain said animal (excluding herding dogs, dogs in process of hunting, police dogs, dogs participating in a registered field trial, obedience training or trial, or on its owner's property)

(c) "Humane Manner" means a manner consistent with the physical and behavioral needs of a species; including but not limited to adequate heat, ventilation, and sanitary shelter, wholesome food and water consistent with the normal requirements and feeding habits of the particular animal according to its size, species, and breed; including necessary veterinary care.

(d) "Owner" means any person or entity owning, keeping, harboring or having control of one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for ten (10) or more consecutive days. Any implied owner will also be construed as being the owner of an animal. An animal owner is responsible for keeping their animals under direct control at all times and will be held accountable for any violation of this ordinance.

(e) "Prohibited Dangerous Animal" means any animal that has been declared dangerous or vicious or equivalent by another municipality, county, or state or any animal trained for fighting, or any dog subject to be destroyed under sec. 174.02(3), Wis. Stats. or any animal which inflicts severe bodily harm or death to a domestic animal or person or a declared dangerous animal that the owner does not maintain under sec. 14-454(c) and (d).

(f) "Secure Enclosure" means confinement of an animal in a building or other enclosure that renders such animal inaccessible to any other animal or people and escape.

(g) "Warning Notice" means a form used by a law enforcement officer or Humane Officer served on an owner's agent advising them of an existing violation of this ordinance.

(Ord. No. 170-11, 04/28/15.)

Sec. 14-453 Prohibiting Animals Running At Large.

(a) It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, including but not limited to domestic, livestock, farm, wildlife or fowl raised in captivity, to permit the animal to stray, run, go or roam at-large in or upon any public street, sidewalk, school grounds, in the area of school vehicles, beaches, parks or on the private property of others without the consent of the owner of such property.

(b) Any animal found in violation of this Section may be impounded.

(c) Any person seizing an unrestrained, or animal at large shall capture the animal in a safe and humane manner, and may employ certain humane traps for such purpose.

Sec. 14-454 Dangerous and Prohibited Animals.

(a) A Humane Officer or law enforcement officer may declare that an animal is a Dangerous Animal if it is determined the animal meets the definition of a Dangerous animal as stated in this ordinance.

(b) Upon a Dangerous Animal determination by a Humane Officer or law enforcement officer pursuant to the definition in Sec. 14-452(b), an order declaring the animal to be dangerous will be issued. The Humane Officer will mail the declaration to the Owner's last known address by certified mail. If the Owner wishes to dispute the declaration, he / she must submit a written objection within thirty (30) days to Waukesha County for administrative review under Sec. 18-154.

(c) Any animal declared to be a Dangerous Animal shall be either euthanized with documentation provided to the Humane Officer or confined in a secure enclosure on the premises of the Owner of such animal. No Dangerous Animal shall be allowed off the premises of the Owner unless such animal remains:

1. Inside a secure animal carrier; or
2. Under the Direct Control of such Owner and securely muzzled and restrained by a chain with a minimum tensile strength of three hundred (300) pounds.

(d) The following requirements must be met in order to keep an animal that has been declared a Dangerous Animal:

1. Proof of liability insurance specifying coverage for personal injuries inflicted by the Dangerous Animal provided within ten (10) days of the dangerous declaration to the Humane Officer.
2. The animal must have a microchip implanted and the chip number provided within ten (10) days of the dangerous declaration to the Humane Officer.
3. A current color photograph of the animal provided within ten (10) days of the dangerous declaration to the Humane Officer.
4. Further conditions established by the Humane Officer or law enforcement officer on a case-by-case basis.

(e) It is a violation of this ordinance for the Owner of a Dangerous Animal to refuse or fail to confine or restrain such animal as required by this Section. Failure to comply with the requirements to keep a Dangerous Animal will result in a Prohibited Dangerous declaration of the animal and the associated consequences set forth in Sec. 14-454 (j) through (o).

(f) No Dangerous Animal impounded pursuant to this ordinance shall be released until the Owner of such Dangerous Animal presents proof to the Humane Officer or law enforcement officer that the conditions to keep a Dangerous Animal have been met; as required by this Section. The animal will not be impounded longer than ten (10) days. If the animal is not reclaimed or arrangements made within the ten-day time period, it will be considered an abandoned animal, and euthanized under Wisconsin State Statute section 173.23(1m)(c).

(g) A Dangerous Animal that is found off premises of its Owner or is involved in another qualifying incident will be declared Prohibited Dangerous and may be seized by any law enforcement officer or Humane Officer. A request for a judgment to euthanize the animal shall be brought before the court.

(h) The Owner of a Dangerous Animal shall report in writing the name and address of the new Owner to the Humane Officer or law enforcement officer a minimum of twenty-four (24) hours prior to transfer of ownership or custody of such animal. It is a violation of this ordinance not to report the name and address of the new Owner.

(i) The Owner of a Dangerous Animal shall report in writing or by telephone the death of such animal within 24 hours to the Humane Officer or law enforcement officer, and it is a violation of this ordinance not to do so. The death of such animal shall be verified by a licensed veterinarian, Humane Officer, law enforcement officer, or a representative of a humane society.

(j) Upon Prohibited Dangerous Animal determination by a Humane Officer or law enforcement officer, an order declaring the animal to be Prohibited Dangerous will be issued pursuant to the definition in Sec. 14-452(f). The officer will mail the declaration to the animal Owner's last known address by certified mail. If the Owner wishes to dispute the declaration, he/she must submit a written objection within ten (10) days to Waukesha County for administrative review under Sec. 18-154. The animal shall be held under the conditions required of a Dangerous Animal pursuant to Sec. 14-454(c) until the case is completed.

(k) Declared Prohibited Dangerous Animals are not allowed in Waukesha County. For an animal declared Prohibited Dangerous, the animal Owner must provide proof of euthanasia or the microchip information along with the name and address of the new Owner outside of Waukesha County.

(l) Failure to remove a Prohibited Dangerous Animal from Waukesha County within ten (10) days of declaration or administrative review or court determination, or if animal is found off premises of its Owner, may result in animal being seized by any law enforcement officer or Humane Officer. A judgment to euthanize the animal may be requested of a court if a legal order is not already established. The animal will not be impounded longer than ten (10) days. If the animal is not reclaimed or arrangements made within the ten-day time period, it will be considered an abandoned animal, and euthanized under Wisconsin State Statute sec. 173.23(1m)(c).

(m) No animal shall be classified as a Dangerous Animal or Prohibited Dangerous Animal if the injury was sustained by a person who, at the time, was committing or attempting to commit a crime upon the Owner of the animal or who was committing a willful trespass upon premises occupied by the Owner of the animal, or who was teasing, tormenting, provoking, abusing or assaulting the animal or its Owner.

(n) Law enforcement canine officers are exempt from this ordinance while on duty.

(o) Under Wisconsin State Statute section 173.21, animals can be held for cause if they pose a significant threat to public health, safety, and welfare.

(Ord. 170-11, 04/28/15.)

Sec. 14-455 Animals in Motor Vehicles.

(a) The owner or operator of a motor vehicle shall not place or confine an animal, nor allow an animal to be placed or confined in an unattended motor vehicle without sufficient ventilation or under conditions which may endanger the health or well-being of the animal due to heat, lack of water or any other circumstances which may cause suffering, disability or death.

(b) It shall be unlawful to transport any animal in any vehicle, if such vehicle is of open design, unless the animal is safely and humanely restrained.

(c) A Humane Officer or law enforcement officer may remove and impound an animal from a vehicle if its safety appears to be in immediate danger from heat or cold or lack of adequate ventilation. The officer is authorized to take all steps reasonably necessary for the removal of such animal, including but not limited to breaking into the vehicle. Neither the officer nor his or her agency shall bear civil liability for damage. The animal may be impounded and taken to a veterinarian if necessary. A written notice will be left in a prominent place upon the vehicle as to the reason for the removal of the animal. The owner of the animal and the owner of the motor vehicle are responsible for any costs incurred.

Sec. 14-456 Tethering of Animals.

No person shall tether any animal to a fixed object unless such chains, ropes or leashes are so placed or attached that they cannot become entangled with another animal or object, and shall be of sufficient length in proportion to the size of the animal to allow the animal proper movement and convenient access to food, water, and shelter. Such tethering shall be located so as not to allow such animal to trespass on

public property or private property belonging to others, nor in such a manner as to cause harm or danger to persons or other animals.

Sec. 14-457 Opposing a Humane Officer.

(a) It shall be unlawful for any person to oppose, resist, obstruct, hinder or in any manner prevent a Humane Officer from performing lawful duties.

(b) It shall be unlawful to tear down, burn, deface, destroy or otherwise damage any animal shelter or vehicle, or to release or remove any animal from the custody of a Humane Officer, or trap used by the Humane Officer.

Sec. 14-458 Officers and Administrators Not Responsible for Accident or Disease to Any Animal.

Anyone enforcing the provisions of this article shall not be held responsible for any accident or disease that may happen to any animal.

Sec. 14-459 Citation Constitutes Warning to Household.

Issuance of a citation or warning to an adult member of the household in which an animal resides shall be deemed notice of the citation or warning to all members of the household.

Sec. 14-460 Citation Authority.

(a) Pursuant to Sec. 66.0113, Wis. Stats., the County of Waukesha adopts and authorizes the use of a citation to be issued for violation of ordinances, including ordinances for which a statutory counterpart exists.

(b) The Director of Parks and Land Use Department has the authority to issue citations for violations under this section. In addition, the Director of Parks and Land Use may designate to employees appointed as Humane Officers the authority to issue citations as authorized under this section.

(c) *Form.* The citation shall contain the following:

1. The name and address of the alleged violator.
2. Factual allegations describing the alleged violation.
3. The time and place of the offense.
4. The section of the statute or ordinance violated.
5. A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
6. The time at which the alleged violator may appear in court.
7. A statement which, in essence, informs the alleged violator:

    i. That a cash deposit based on the schedule established by this section may be made which shall be delivered or mailed to the Clerk of the Waukesha County Circuit Court prior to the time of the scheduled court appearance.

    ii. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.

iii. That if a cash deposit is made and the alleged violator does not appear in court, he or she will be deemed to have entered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment, crime lab assessment and drug/law enforcement assessment and any applicabl3e domestic abuse or consumer information assessments or, if the court does not accept the plea of no contest, a summons will be issued commanding him or her to appear in court to answer the complaint.

iv. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment, or an action may be commenced to collect the forfeiture, the penalty assessment, jail assessment, crime lab assessment and drug/law enforcement assessment and any applicable domestic abuse assessment or consumer information assessments.

v. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of, or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered.

8. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under section (c). 7, above has been read. Such statement shall be sent or brought with the cash deposit.

9. Such other information as the County deems necessary.

(d) The schedule of cash deposits including the penalty assessment, jail assessment, crime lab assessment and drug/law enforcement assessment and any applicable domestic abuse assessment or consumer information assessments for use with citations issued under this section is adopted and is on file in the Offices of the Sheriff, Parks and Land Use, County Clerk and Clerk of Courts. Receipts shall be given for cash deposits.

(e) The procedures contained in Section 66.0113(3) of the Wisconsin Statutes, as it is from time to time amended, relating to the options of an alleged violator and default are adopted and incorporated herein by reference.

(f) This section does not preclude the County or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

(Ord. No. 158-55, 08/26/03; Ord. No. 160-26, 7-26-05.)

Sec. 14-461 Penalties.

(a) Any person who violates s. 95.21(2), Wis. Stats. shall forfeit not less than $50 or more than $100 and costs of prosecution for each violation.

(b) Any person who violates s. 174.05(1), Wis. Stats. shall forfeit not less than $100 nor more than $500 and costs of prosecution for each violation.

(c) An owner who refuses to comply with an order issued under s.95.21, Wis. Stats. to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than $100 nor more than $1,000 or imprisoned not more than 60 days or both.

(d) Any person who violates the provisions identified in s.951.18 (1), Wis. Stats. shall be subject to the penalty provisions of s.951.18, Wis. Stats.

(Ord. No. 162-53, 10/09/07.)

Sec. 14-464 Each Day a Separate Offense.

Each day a violation exists shall constitute a separate violation.

Sec. 14-465 Effective Date.

The provisions of this Article shall take effect subsequent to publication, on January 1, 2004.

(Article XII was created by Ord. No. 158-55, 08/26/03)

Sec. 14-466 - 14-500. Reserved.

ARTICLE XIII. WATER AND WATER QUALITY

Division 1. In General.

Sec. 14-501 Adoption of state boating and water safety law.

(a) The statutory provisions describing and defining regulations with respect to water traffic, boats, boating and related water activities in the following enumerated sections of the Wisconsin Statutes, exclusive of any provisions therein relating to the penalties to be imposed or the punishment for violation of the statutes, are hereby adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by the provisions of any statute incorporated by reference herein is required or prohibited by this section.

1. 30.50 Definitions;
2. 30.51 Operation of unnumbered boats prohibited;
3. 30.52 Certificate of number;
4. 30.53 Identification number to be displayed on boat; certificate to be carried;
5. 30.541 Transfer of ownership of numbered boat;
6. 30.55 Notice of abandonment or destruction of boat or change of address;
7. 30.60 Classification of motorboats;

8. 30.61 Lighting equipment;
9. 30.62 Other equipment;
10. 30.64 Patrol boats exempt from certain traffic regulations;
11. 30.65 Traffic rules;
12. 30.66 Speed restrictions, paragraph 1;
13. 30.67 Accidents and accident reports;
14. 30.68 Prohibited operation;
15. 30.69 Water skiing;
16. 30.70 Skin diving;
17. 30.71 Boats equipped with toilets;
18. 30.79 Municipal water safety patrols.

(b) Any person violating the provisions of this section shall be fined not less than twenty dollars ($20.00) nor more than two hundred dollars ($200.00). Upon default in payment of such fine such person shall be imprisoned in the county jail until full payment is made but not exceeding sixty (60) days.

(c) Any officer arresting a person for violation of a provision of this section who is unable to bring the person arrested before the county court without unnecessary delay shall permit such person to make a money deposit as provided in section 30.80 of the Wisconsin Statutes.

(Ord. of 6-17-75, §§ 1, 2)

Sec. 14-502 Oconomowoc River watershed program.

The county land conservation is the lead agency for the Oconomowoc River watershed program.

(Res. No. 134-11/83, 11-8-83)

Secs. 14-503 - 14-570 Reserved.

Editor's note: Former Secs. 14-526 through 531 regarding Okauchee, Pretty, Phantom, School Section, North and Lac La Belle Lakes were repealed by Enrolled Ordinance 160-26.

Division 2. Reserved.

Division 3. Private Sewage Systems.

Sec. 14-571 Purpose.

General. The underlying principles of this division are basic goals in environmental health and safety accomplished by proper siting, design, installation, inspection, and maintenance of private sewage systems. The prerequisites necessary for the essential protection of the public health and the environment are the same everywhere. As unforeseen situations arise which are not specifically covered in this chapter, the basic principles enumerated in this division shall serve to define the intent.

(Ord. No. 155-34, 08-25-2000)

Sec. 14-572 Basic Principles.

Every building that has or is required to have plumbing fixtures and that is intended for human habitation or occupancy shall be provided with an approved method of treatment and disposal of domestic sewage and sanitary wastewater. This may be through connection to a public sewer system, a private sewage system or other means approved by the county. For the purposes of this document the terms a "private sewage system" and "private onsite waste treatment system" (POWTS) shall have the same meaning.

(Ord. No. 155-34, 08-25-2000)

Sec. 14-573 Reference.

This ordinance incorporates by reference the following rules, regulations, and laws, as set forth in the Wisconsin Statutes and the Wisconsin Administrative Code governing the location, construction, and use of private sewage systems: Section 59.70(5), Chapter 145, Section 281.48 and 968.10, Wisconsin Statutes, DSPS 381, DSPS 382, DSPS 383, DSPS 384, DSPS 385, DSPS 391, NR 113 and NR 116, Wisconsin Administrative Code. These rules, regulations, and laws shall apply until amended or renumbered and then shall apply as amended or renumbered.

(Ord. No. 155-34, 08-25-2000)

Editor's Note: Administrative Code references to Comm 81-91 updated to DSPS 381-391 and reference to Comm 52.63 eliminated. (05/12)

Sec. 14-574 Policy / Interpretations.

By Wisconsin law, the Department has the authority to establish policies and interpretations for private sewage system installations which are not specifically addressed in this ordinance, DSPS 383, DSPS 385 or other administrative rules relating to private sewage system installations.

(Ord. No. 155-34, 08-25-2000)

Editor's Note: Administrative Code references to Comm 83 and 85 updated to DSPS 383-385. (05/12)

Sec. 14-575 Definitions.

(a) "Bedroom" refers to a room provided with a closet(s) and entry door(s) that due to its location and design has a potential for being used for sleeping purposes.

(b) "Committee" shall mean the duly appointed Waukesha County Land Use, Parks and Environment Committee.

(c) "Department" shall mean the Waukesha County Department of Parks and Land Use, Environmental Health Division.

(d) "Floodplain" shall have the same meaning as found in Wisconsin Administrative Code DSPS 381.

(e) "Private Sewage System" and "Private Onsite Wastewater Treatment System" (POWTS) shall have the same meaning as given under 145.01(12), Wisconsin Statutes.

(f) "Private Residence" means a one (1) or two (2) family building or dwelling.

(g) “PSE” means “Preliminary Site Evaluation” and refers to a private sewage system evaluation that is conducted as a precursor to obtaining a building permit for remodeling, building additions or improvements to private residential or public buildings served by a private sewage system. PSE also includes reconnection of a building to an existing private sewage system.

(h) “Public Building” means any structure used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or used by the public or by 3 or more tenants.

(i) “Sanitary Permit” shall mean a permit issued by the Department for any private sewage system that is installed, repaired, altered, enlarged, extended, replaced, converted or remediated within the County of Waukesha.

(j) "Subdivision" means a division of a lot, parcel or tract of land by the owner thereof, or the owner's agent for the purpose of sale or building development as defined under Wisconsin State Statutes 236.

(k) "Subdivision Review Committee" shall be a committee consisting of staff from the Waukesha County Department of Parks and Land Use and staff from other Waukesha County Departments or Divisions.

(Ord. No. 155-34, 08-25-2000; Ord. No. 167-15, 07/11/12.)

Sec. 14-576 Sanitary Permits.

(a) *Building Permits.* Pursuant to Section 145.195, Wisconsin Statutes, building permits issued by a city, village or town for construction of any structure not served by a public sewer and requiring connection to a private sewage system shall be issued in accordance with the procedures of this section.

(b) *Sanitary Permit.* Pursuant to Section 145.19 Wisconsin Statutes, a city, village or town may not issue a building permit for construction of a new structure that requires the installation of a private sewage system unless the owner has obtained a sanitary permit.

(c) *Sanitary Permit Application*. The application for a sanitary permit shall be made on forms approved by the Department of Safety and Professional Services. A licensed master plumber or master plumber restricted service shall sign the sanitary permit application and assume responsibility for the private sewage system being installed, repaired, altered, enlarged, extended, converted or re-connected.

(d) *Plan Submission.* When applying for a sanitary permit all plans shall include the following information:

1. Plot plan: Detailed plot plan, dimensioned or drawn to scale not greater than 1” = 60’, showing the lot size; recorded easements; deed restrictions; the location of all septic tanks; holding tanks or other treatment tanks; building sewers-sanitary and storm sewers; wells; water mains or water service; streams and lakes; dosing or pumping chambers; distribution boxes; effluent systems; dual disposal systems; replacement system location & type; and the location of the building served. Adjoining properties shall be checked to insure that the site location setback distances in chapter DSPS 383 are complied with.

2. For new private residential properties on lots 5 acres or less, a survey completed by a registered land surveyor showing the house stakeout shall be submitted with the sanitary permit application. On lots greater than 5 acres, the requirement for a survey with building stakeout will be evaluated on a case by case basis.

3. Plans shall be submitted in duplicate on paper not less than 8 ½" by 11" in size.

4. Reference point: A permanent vertical elevation reference point and a horizontal reference point must be established and shown on the plot plan.

5. Soil data: Soil and Site Evaluation data shall relate to the undisturbed and finished grade elevations, vertical elevation reference point and horizontal reference point. Surface elevations shall be given for all soil borings. A Soil and Site Evaluation Report may not be required if the site is located in a floodplain, if minimum isolation distances cannot be met, or if the site has been altered to the extent that a sewage holding tank is the only alternative available.

6. Occupancy: For a private residence, the private sewage system shall be designed for the maximum number of bedrooms. For public buildings, the private sewage system shall be designed using the sizing criteria found in DSPS 383 and respective component manual.

7. Other Plans and Specifications: Complete plans and specifications for the proposed private sewage system shall be submitted when the sanitary permit application is made.

8. A sanitary permit which designates a holding tank as a replacement system shall not be issued unless a Soil and Site evaluation determines the property is unsuitable for any other type of system permitted by DSPS 383, Wisconsin Administrative Code.

9. The Department reserves the right to refuse incomplete or incorrect sanitary permit applications or to delay sanitary permit issuance until a corrected or complete application is received.

10. When provisions of Wisconsin Statutes, Wisconsin Administrative Code or this Ordinance have not been complied with, the permit shall be denied. Reasons for the denial shall be forwarded in writing to the submitting party.

(Ord. No. 155-34, 08-25-2000; Ord. No. 167-15, 07/11/12.)

Editor's Note: References to Comm 83 updated to DSPS 383. (05/12)

Sec. 14-577 Sanitary Permit Transfer, Revision and Revocation/Suspension.

(a) *Transfer*. When there is a change of ownership, approval from the Department shall be obtained prior to the installation of the private sewage system.

(b) *Revision.*

1. Approval from the Department is required whenever there is a change in the private sewage system design for which a plan has previously been approved if the proposed change involves any of the following:

   A) A change in the wastewater flow or contaminant load.
   B) The replacement or addition of a POWTS component listed in Table 383.04-1.
   C) The addition of a POWTS dispersal component.
   D) A change to one or more dispersal components involving any of the following:
      i. Location outside suitable evaluated areas or proposed depths or elevations.
      ii. Dimensions of any distribution cell or basal area.
      iii. Type of dispersal component.
      iv. Design of a pressure distribution component, except for changes to pumps, forcemain lengths, total dynamic head, or pump control settings.

2. Approval is required from the Department when there is a change in the licensed plumber, licensed in the State of Wisconsin. Sanitary permits for private sewage systems requiring State plan approval shall not be revised unless the plan bears the stamp of an architect or engineer, plumbing designer, licensed in the State of Wisconsin, or a State level approval is obtained by a new plumber.

(c) *Suspension.* The Department may suspend any sanitary permit issued under this section for any false statements or misrepresentations of fact that served as the basis for issuance of the permit. The reasons for suspension shall be conveyed in writing to the owner of the premises listed on the permit application. After suspension of the permit, no work may be done on the private sewage system until the conditions of permit suspension have been complied with and the Department has reinstated the sanitary permit.

(d) *Revocation.* The Department may revoke any sanitary permit issued under this section for any false statements or misrepresentations of fact that served as the basis for issuance of the permit. The reasons for revocation shall be conveyed in writing to the owner of the premises listed on the permit application. After revocation of the permit, no work shall be done on the private sewage system until a new permit is obtained.

(Ord. No. 155-34, 08-25-2000; Ord. No. 167-15, 07/11/12.)

Sec. 14-578 Private Sewage System Inspection.

(a) The county shall inspect all private sewage systems after construction but before backfilling no later than the end of the next workday, excluding Saturdays, Sundays and holidays after receiving notice from the plumber in charge. Notice from the plumber in charge shall be made to the Department in a timely manner on the business day prior to the day the system is anticipated to be ready for inspection. Inspections shall be reported in a format acceptable to the Department of Safety and Professional Services. The plumber in charge or an authorized journeyman plumber must be present during the inspection and must provide all necessary equipment and assistance to the inspector as requested.

(b) Additional inspections of a private sewage system may be necessary based on private sewage

system type, complexity or due to unforeseen circumstances.

(Ord. No. 155-34, 08-25-2000; Ord. No. 167-15, 07/11/12.)

Sec. 14-579 Sanitary Permit Expiration.

The sanitary permit is valid for a period of two years from the date of issuance. A sanitary permit may be renewed if the private sewage system has not been completely installed provided the renewal is obtained prior to the expiration of the sanitary permit.

(Ord. No. 155-34, 08-25-2000)

Sec. 14-580 Sanitary Permit Fees.

(a) The fees charged by the Department for a sanitary permit, sanitary permit revision or transfer are identified in the Sanitary Permit Fee Schedule posted at the Department.

(b) The Department maintains authority to set and adjust fees annually through the county budget process to reflect changes in cost and/or level of service provided.

(Ord. No. 155-34, 08-25-2000)

Sec. 14-581 Construction of Structures and Improvements on Properties With an Existing Private Sewage System.

(a) The city, village or town may not issue a building permit for the following conditions unless the owner provides the applicable information specified in paragraph (b).

1. Construction of a structure to be connected to an existing private sewage system;
2. Disconnection of a structure from an existing private sewage system and connection of another structure to the system; or
3. Reconstruction of a damaged structure that is connected to a private sewage system;
4. Construction of a structure or other improvement, such as a swimming pool, deck pole building, outbuilding, garage, etc. not requiring connection to the private sewage System.

(b) Documentation shall be provided to verify:

1. That the existing private sewage system is not a failing system;
2. That the existing private sewage system has sufficient size and is installed in suitable soil to accommodate the wastewater load;
3. That the structure or improvement meets the minimum set back requirements as specified in DSPS 383, Wisconsin Administrative Code;

(c) Disconnection of a structure from an existing private sewage system and connection of another structure to the system requires a valid soil test on file. A soil test is required if not on file. The POWTS shall have adequately sized components and comply with applicable codes.

(Ord. No. 155-34, 08-25-2000; Ord. No. 167-15, 07/11/12.)

Editor's Note: Reference to Comm 83 updated to DSPS 383 and title of Section changed at request of Parks and Land Use staff. (05/12)

Sec. 14-582 Private Sewage System Types.

(a) Private sewage system types that utilize any of the technologies, designs or methods found in DSPS 382, Wisconsin Administrative Code, will be allowed for new and existing private sewage system installations within Waukesha County subject to the following restrictions:

1. Holding Tank

   A. System design, construction, inspection, operation, maintenance and restrictions shall be as described in the component manual.

   B. When no other alternatives are available, a holding tank will be allowed for an existing private residence, for a new or existing public building, or if one or more of the following conditions exist:

      i. For an existing private residence which is being rebuilt rather than being remodeled on the property.

      ii. For a new private residence on property where public sewers, approved by the Department of Natural Resources, will become available within two years.

      iii. For a new or existing private residence or public building where inclement weather has prevented the installation of a private sewage system, but only for a temporary period of time not to exceed one year.

   C. Obtaining a sanitary permit.

2. *Off Lot Private Sewage Systems:* For an individual private sewage system located on a land parcel that is not owned by the owner of the wastewater source, a written easement will be required that identifies the boundary description of the easement area. The easement must be recorded at the Register of Deeds Office prior to the issuance of the sanitary permit.

3. *Cluster Private Sewage Systems:* For a private sewage system serving multiple buildings located on a separate property owned by multiple owners, the private sewage system must be owned and maintained by a governmental entity or agency.

4. *Condominium Private Sewage Systems*: For a private sewage system serving multiple units/buildings, owned by multiple owners and located on the same property as the unit/building, the owner/association must accept responsibility for the operation and maintenance of the private sewage system and have the local municipality provide written acceptance of this responsibility should the owner/association fail to do so.

5. *Vault Privy, Composting Toilet System, Incinerating Toilet*

   A. Composting and/or incinerating toilets will be allowed on properties that are not connected to a water supply and are not connected to a plumbing system.

   B. For properties utilizing a composting and/or incinerating toilet, if a building that is connected to a water supply and/or has plumbing fixtures, a private sewage system shall be installed that is sized based on the building usage.

   C. Composting and/or incinerating toilets will be allowed only in owner occupied residences and not for rentals or public buildings.

   D. Vault type privies shall be allowed for parks, golf courses or recreational areas provided the structure served is not connected to a water supply and does not have plumbing fixtures installed.

6. *Large Onsite Sewage System*: In accordance with the August 1999 Memorandum of Understanding (MOU) between the Department of Safety and Professional Services and the Department of Natural Resources (DNR), any large onsite sewage system as defined in the MOU shall be referred to the Department of Safety and Professional Services and DNR for plan review and approval.

7. *Individual Site Design:* (ISD) is a POWTS design that does not follow a pre-approved component manual.

(Ord. No. 155-34, 08-25-2000; Ord. No. 160-26, §8, 7-26-05, Ord. No. 167-15, 07/11/12.)

Sec. 14-583 Siting Requirements.

Each parcel of land being initially developed shall have a sufficient area of suitable soils for the initial private sewage system. The soil absorption component of the private sewage system shall be established based on the soil evaluation, estimated permeability, system location and site requirements contained in this ordinance, DSPS 383 and 385 Wisconsin Administrative Code and individual system component manuals approved by the Department of Safety and Professional Services, except for the following:

1. Floodplain: Except as provided in ss. NR116.12 (1)(e) and 116.15 (2)(b), no part of a POWTS may be installed in a floodway. Any POWTS components installed in a floodplain shall meet the installation requirements found in DSPS 383.45 (6)(a) and 383.45 (6)(b), Wisconsin Administrative Code.

2. Filled Area. Filled sites must be evaluated by Department and/or Department of Safety and Professional Services personnel and must receive written approval from the Department or Department of Safety and Professional Services prior to the issuance of a sanitary permit.

(Ord. No. 155-34, 08-25-2000; Ord. No. 167-15, 07/11/12.)

Sec. 14-584 Public Sewer Connection.

Every building intended for human habitation or occupancy, for which public sewer is deemed available, shall be connected to the public sewer by means of individual connections or private interceptor mains. The local municipality, sanitary or utility district having jurisdiction, shall make a determination regarding sewer availability. Existing failing private sewage systems as defined in 145.245 Wisconsin Statutes shall be ordered to connect to public sewer if deemed available by the local municipality.

(Ord. No. 155-34, 08-25-2000)

Sec. 14-585. Subdivision Standards.

The provisions of this section apply to all proposed subdivisions and re-divisions of existing subdivision lots that include proposed lots not served by existing public sewers or where provisions assuring for such service have not been made. Provisions assuring the availability of public sewer service shall be made through city, village, town or town sanitary district by resolution or other official action requiring that all buildings within the proposed subdivision be served by public sewers prior to occupancy.

1. Prior to recording the subdivision plat, review of the plat by the subdivision review committee will be required for the purpose of reviewing one or more of the following items but not limited to: lot layout, soils, wetland area, floodplain, road access, shoreline, slope, area for private sewage system, conservancy area, typography, burial sites, watershed, basement depth limitations, existing private wells, dumps, landfills.

2. After the subdivision review committee has reviewed the plat, has provided written comments, the developer has resolved the committee's concern and/or has incorporated the comments into the final plat, then the plat can be recorded at the Waukesha County Register of Deeds office.

3. Determinations of approved documentation shall be in the form of a sanitary permit or in writing.

4. Supporting soil data shall be submitted to Waukesha County Parks & Land Use, Division of Planning & Zoning before or at the time of formal submittal of the preliminary plat for each parcel of land being initially developed to show sufficient area of suitable soils based on the soil evaluation, estimated permeability, system location and site requirements contained in this ordinance, DSPS 383 and DSPS 385, Wisconsin Administrative Code.

5. The Department has authority to set and adjust fees annually as set forth in the fee schedule posted in the Department.

(Ord. No. 155-34, 08-25-2000; Ord. No. 167-15; 07/11/12.)

Editor's Note: references to Comm 83 and Comm 85updated to DSPS 383 and 385. (05/12)

Sec. 14-586 Failing Private Sewage System.

(a) When a failing or malfunctioning private sewage system as defined in 145.245 Wisconsin Statutes is identified, the private sewage system shall be corrected or its use discontinued within that period of time required by county order. Health and safety hazards shall be abated immediately.

(b) If any part of a private sewage system has failed or requires replacement or modification, all other system components shall be evaluated. Any existing POWTS components installed prior to July 1, 2000 shall conform to the siting, design, construction and maintenance rules in effect at the time of installation.

(c) If any part of the private sewage system is found to be defective or not in conformance with the siting, design, construction and maintenance rules in effect at the time of installation, the sanitary permit application shall include specifications for the repair, renovation, replacement or removal of that part.

(Ord. No. 155-34, 08-25-2000; Ord. No. 167-15, 07/11/12.)

Sec. 14-587 Agent Status.

The Department may request and obtain approval from the Department of Safety and Professional Services to review plans as an authorized agent for various private sewage system designs as identified in the component manuals. As an agent, plan submission for the various private sewage system types and plan review fee amounts will be the same as charged by the Department of Safety and Professional Services.

(Ord. No. 155-34, 08-25-2000)

Editor's Note: Reference to Department of Commerce updated to Department of Safety and Professional Services. (05/12)

Sec. 14-588 Preliminary Site Evaluation.

Pursuant to s. 145.195, Stats., the issuance of building permits by a municipality for unsewered properties shall be in accordance with DSPS 383.25(2), Wisconsin Administrative Code. Prior to the issuance of a building and/or zoning permit for construction of structures, reconnection of a building to an existing private sewage system or improvements to the property, an evaluation of the existing private sewage system is required in accordance with the procedures identified in the Department's Policy and Interpretation Manual.

(Ord. No. 155-34, 08-25-2000; Ord. No. 167-15, 07/11/12.)

Sec. 14-589 Private Sewage System Maintenance.

Unless a private sewage system type is specifically identified in this ordinance, in the component manual or in the management plan as having a maintenance schedule different than three years, all private sewage systems shall be subject to a maintenance program as follows, in accordance with implementation deadlines stated in DSPS 383 Wisconsin Administrative Code:

1. All septic tanks and lift pump tanks shall be pumped and/or inspected within three (3) years of the date of installation and at least once every three (3) years thereafter. The maintenance period will begin using the final inspection date of the private sewage system or, in the case of new construction, within three (3) years from the date of occupancy. Documentation of the date of occupancy will be provided by the owner.

2. The Department may extend the required visual inspection frequency of a private sewage system, to a maximum period of five (5) years, due to seasonal or limited use upon written documentation from the property owner/agent.

3. Documentation of tank pumping and/or inspection shall be submitted to the Department in a manner acceptable to the Department.

4. The servicing frequency for POWTS using an anaerobic treatment tank shall occur at least when the combined sludge and scum volume equals 1/3rd of the tank volume. A certified septage servicing operator, master plumber, master plumber restricted service, registered POWTS maintainer, or POWTS inspector shall provide documentation that the combined sludge and scum volume within the tank is less than 1/3rd the volume of the tank.

5. Circumstances such as inclement weather, road weight restrictions and site limitations may delay tank maintenance until such time as conditions improve to permit maintenance.

6. For private sewage systems utilizing aerobic pretreatment, the servicing, maintenance or pumping interval shall be on a three (3) year basis unless the Department of Safety and Professional Services and/or the manufacturer of the component requires maintenance on a less than or greater than three (3) year interval.

7. When a maintenance or service contract is required by the Department of Safety and Professional Services or the Department as a condition of approval, the owner of a private sewage system shall enter into a maintenance or service contract with a POWTS maintainer for as long as the POWTS is utilized. Failure to renew or have in effect a current service/maintenance contract may subject the owner to eviction, fine, or legal action.

8. The maintenance guidelines identified in the individual component manuals and as specified as a condition of the State and/or Department approval will be used to establish a maintenance schedule specific to the individual component type.

9. Private sewage systems which require evaluation, monitoring or maintaining at an interval of twelve (12) months or less will require the owner to enter into a service/maintenance contract with a certified septage servicing operator or POWTS maintainer. The service/maintenance contract shall, upon expiration/termination be renewed. Failure to renew or have in effect a current service/maintenance contract may subject the owner to eviction, fine, or legal

action. Documentation shall be submitted that maintenance requirements for the proposed POWTS technology, or method, have been recorded with the Register of Deeds.

10. Documentation of inspection, maintenance or service shall be within thirty (30) calendar days from the date performed or as established by the Department.

11. The submission of inspection, maintenance or service reports shall be in a manner specified by the Department and must include the date of inspection, maintenance or service performed, the property location and license, certification or registration number of the individual performing the inspection, maintenance or service.

12. The holding tank pumping report shall indicate the owner's name, location of the property on which the tank is located, the pumper's name, the date, volume pumped and the disposal site of the holding tank waste.

13. Failure to provide documentation of holding tank maintenance as required by this ordinance may subject the owner to the penalties allowed under state law and/or county ordinance.

14. Failure to maintain the private sewage system or provide documentation of its maintenance as required by this ordinance may subject the owner to penalties allowed under State law and/or County ordinance.

(Ord. No. 167-15, 07/11/12.)

Sec. 14-590 Sanitary Survey.

The Department may enter into an agreement/contract for fee to perform a sanitary survey of properties by request of a municipality, a management district, a sanitary or utility district or from a recognized association.

(Ord. No. 155-34, 08-25-2000; Ord. No. 167-15, 07/11/12.)

Sec. 14-591 Enforcement.

(a) It shall be the duty of the Director of the Department or the Director's designee to enforce the provisions of this chapter relating to the regulation or private sewage systems.

(b) For the purpose of investigation and enforcement, the Department shall have access to premises during reasonable hours to make necessary inspections. In the event any owner or occupant of any premises shall refuse entry for inspection purposes, the Department may obtain a special inspection warrant under s.66.0119 of the Wisconsin Statutes.

(c) *Stop Work Order*. When the Department finds that construction or alteration of a private sewage system is occurring without a sanitary permit, the Department may post on the premises a Stop Work Order causing all work to cease. The owner shall be notified of the violations and informed of appeal procedures. Failure to discontinue work while a Stop Work Order is in effect will be considered a violation of this ordinance and subject the parties involved to the penalties described herein.

(d) *Citation Enforcement.* To expedite the enforcement of this chapter, the Director of the Department or the Director's designee may issue citations for the enforcement of this chapter. The adoption of the citation method of enforcement shall not preclude the County from enforcing this chapter by other means provided by law. The citation shall have the effect specified under s.66.0119, Wisconsin Statutes, and shall confer subject matter jurisdiction upon the circuit court for Waukesha County. The person issued a citation shall be required to remit an amount provided in a forfeiture schedule as from time to time adopted by the committee.

(Ord. No. 155-34, 08-25-2000)

Sec. 14-592 Appeal.

(a) The Committee may act as a Board of Appeals and may hear appeals and grant individual variance from this ordinance where it is determined that no substantial health hazard is likely to occur therefrom and unnecessary hardship might result from strict compliance with these regulations. A request shall be filed in writing with the Director of the Department three (3) weeks prior to the next scheduled Board of Appeals meeting. After hearing the appeal, the Board of Appeals shall render its decision at or before its next regularly scheduled meeting.

(b) A non-refundable fee shall accompany each request as described in the Department fee schedule.

(Ord. No. 155-34, 08-25-2000; Ord. No. 167-15, 07/11/12.)

Sec. 14-593 Conflicts.

Conflicts with other regulations: In any case where a provision of these regulations is found to be in conflict with a provision of any other regulation of the County of Waukesha or State of Wisconsin, the provision which, in the judgement of the Director of the Department, established the higher standard for the promotion and protection of the health and safety of the people shall prevail. These regulations shall be construed liberally in favor of the County of Waukesha and for the utmost protection of the public health.

(Ord. No. 155-34, 08-25-2000)

Sec. 14-594 Severability.

(a) If any section subsection, paragraph, clause or phrase of these regulations should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of these regulations which shall remain in full force and effect; and to this end, the provisions of these regulations are hereby declared to be severable.

(b) Information submitted when applying for the sanitary permit or when submitting information for subdivision review that is found to be incorrect or in error shall be grounds for sanitary permit revocation or subdivision review denial.

(Ord. No. 155-34, 08-25-2000)

Sec. 14-595 Penalties.

Any person who fails to comply with the provisions of this chapter relating to the regulation of private sewage systems and disposal of private sewage system wastes or who permits the continued use of premises or buildings which are in violation of those provisions of this chapter shall, upon conviction thereof, forfeit not less than $20.00 nor more than $500.00 and costs of prosecution for each violation. In default of payment of such forfeiture and costs, said person shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense. No penalties shall exceed the penalty authorized by statute.

(Ord. No. 155-34, 08-25-2000)

Division 4. Private Water Systems

Sec. 14-601 Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator shall mean the county employee designated by the county board of supervisors to administer chapter NR 812 in the county as authorized by the Department of Natural Resources.

Committee shall mean the duly appointed Parks and Land Use committee.

Department shall mean Waukesha County Department of Parks and Land Use.

(Ord. No. 146-2S, § 1, 6-18-91)

Editor's Note: NR 112 reference updated to NR812, Department of Health reference changed to Parks and Land Use, and committee name corrected, 05/26/11.

Sec. 14-602 Administration.

The administrator shall:

1. Prohibit the operation of a private water system which is not in compliance with chapter NR 812, Wisconsin Administrative Code and this division.

2. Require the abandonment of wells or drill holes in accordance with standards established in chapter NR 812, Wisconsin Administrative Code and this division. Any ell with water exceeding a primary drinking water standard listed in chapter NR809, Wisconsin Administrative Code, or a state health advisory limit issued by the Department of Natural Resources may be ordered to be abandoned after consultation with and approval by the Department of Natural Resources.

3. Order any person owning or operating a private water system to abandon, modify, repair or replace the private water system in a complying, safe and sanitary condition if the system is not in compliance with the standards established in chapter NR 812,

Wisconsin Administrative Code.

4. Prohibit the use of any new or existing private water system that is found to be installed, constructed, operated or maintained so as to be a health hazard to the users, neighbors or community.

(Ord. No. 146-25, § 2, 6-18-91)

Sec. 14-603 Fees.

Fees shall be as set forth by the department in fee schedules on file in the department and in the office of the county clerk.

(Ord. No. 146-25, § 3, 6-18-91)

Editor's Note: Department of Health reference removed, 05/26/11.

Sec. 14-604 Enforcement.

(a) *Generally.* It shall be the duty of the director of the department or the director's designee to enforce the provisions of this division relating to the regulation of private wells and to refer cases of noncompliance with s. 59.70(6), Wisconsin Statutes, Chapter NR 812 or the county ordinance to the county district attorney or corporation counsel for prosecution. For the purpose of investigation and enforcement, the department shall have access to premises during reasonable hours to make necessary inspections. In the event any owner or occupant of any premises shall refuse entry for inspection purposes, the department of department may obtain a special inspection warrant under sections 66.0119 and 66.0119(3), Wisconsin Statutes.

(b) *Citations.* To expedite the enforcement of this division, the director of the department or the director's designee is authorized to issue citations for the enforcement of this division. The adoption of the citation method of enforcement shall not preclude the county from enforcing this division by any other means provided by law. The citation shall have the effect specified under section 66.119, Wisconsin Statutes, and shall confer subject matter jurisdiction upon the circuit court for the county. The person issued a citation under this division shall be required to remit a cash deposit provided in a forfeiture schedule as, from time to time, adopted by the committee. Cash deposits may be mailed to the clerk of court or to the department. The form of the citation shall be approved by the committee.

(Ord. No. 146-25, § 4, 6-18-91)

Editor's Note: References to department of health removed, 5/27/11.

Sec. 14-605 Penalties.

Any person who fails to comply with the provisions of this chapter relating to the regulation of chapters NR812 or NR 845, Wisconsin Administrative Code and s. 59.70(6), Wisconsin Statutes, or who permits the continued use of premises or buildings which are in violation of the provisions of this division shall, upon conviction thereof, forfeit not less than twenty dollars ($20.00) nor more than five hundred dollars ($500.00) and costs of prosecution for each violation. In default of payment of such forfeiture and costs, such person shall be imprisoned in the county jail until payment thereof but not to exceed thirty (30) days.

Each day a violation exists or continues shall constitute a separate offense. No penalty shall exceed the penalty authorized by statute.

(Ord. No. 146-25, § 6, 6-18-91)

Secs. 14-606 to 14-615 Reserved.

Division 5. Environmental Assessment

Sec. 14-616 Definitions.

(a) *Acquisitions of property* shall include but not be limited to the following transactions by which the county becomes the owner of real property: purchase with money or by trade, dedication for future rights of way or other public purposes, donations, gifts or inheritance, bankruptcy or the *in rem* process, condemnation, transfer by another governmental agency, or by operation of law.

(b) *Phase I Environmental Site Assessment* means conducting an investigation in accordance with the All Appropriate Inquiries Standard, 40 CFR 312, to discover conditions indicative of releases or threatened releases of a hazardous substance(s) on, at, in, or to a premises or in any structure present on a premises, or in any structure located on a premises. Hazardous substance has the meaning set forth in Chapter 292.01(5), Wis. Stats. "Any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illnesses or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department."

(c) *Phase II Environmental Site Assessment.* A Phase II Environmental Site Assessment shall include sampling and analysis of appropriate site substances to determine the nature and extent of the suspected contamination.

(e) *Phase III Environmental Site Assessment.* A Phase III Environmental Site Assessment shall include the actions necessary to restore the environment at the site to the extent practicable and minimize the harmful effects of the discharge to the air, lands or waters of the State of Wisconsin and be performed in accordance with the Wisconsin Administrative Code NR 700 Series as amended from time to time.

(Ord. No. 148-56, § 1, 9-14-93; Ord. No. 161-49, 10/24/06.)

Sec. 14-617 Site assessment for property acquisition or sale by county-Requirement.

Prior to the county's acquisition or sale of any property, the Department of Parks and Land Use or its contractor shall conduct a Phase I Environmental Site Assessment, except as otherwise allowed in this article.

(Ord. No. 148-56, § 1, 9-14-93; Ord. No. 161-49, 10/24/06.)

Editor's Note: Reference to department of environmental resources corrected. 05/27/11.

Sec. 14-618 Same-Exception.

The county may acquire, sell or gift property without conducting a Phase I Environmental Site Assessment as required in this ARTICLE provided approval of the county board, in the form of a majority vote of all its members, has been obtained.

(Ord. No. 148-56, § 1, 9-14-93; Ord. No. 161-49, 10/24/06.)

Sec. 14-619 Same-Administration by county executive.

The county executive shall administer, with the assistance of the Department of Parks and Land Use, all environmental site assessments required by this ARTICLE. Reports regarding the environmental site assessment of each property sold or acquired by Waukesha County shall be retained by and made available for public review at the Department of Parks and Land Use.

(Ord. No. 148-56, § 1, 9-14-93; Ord. No. 161-49, 10/24/06)

Editor's Note: Reference to department of environmental resources corrected. 05/27/11.

Sec. 14-620 When assessment not required.

A Phase I Environmental Site Assessment shall not be required under the following circumstances:

If the property in question is of such small size or has other characteristics which cause the Department of Parks and Land Use to determine that an assessment is not necessary; or

When a property has been subject to a Phase I Environmental Site Assessment approved by the Department of Parks and Land Use.

(Ord. No. 148-56, § 1, 9-14-93; Ord. No. 161-49, 10/24/06)

Editor's Note: Reference to department of environmental resources corrected. 05/27/11.

Sec. 14-621 When further analysis necessary.

If the results of the Phase I Environmental Site Assessment indicate a need for further investigation of the property, and, if after communication of the need the Department of Parks and Land Use is informed that the property will still be considered for acquisition or sale, the Department of Parks and Land Use shall cause a Phase II Environmental Site Assessment to occur, and, if necessary, may cause a Phase III Environmental Site Assessment on behalf of the county to occur, before any county representative obligates the county to acquire the property in question.

(Ord. No. 148-56, §1, 9-14-93; Ord. No. 161-49, 10/24/06)

Editor's Note: Reference to department of environmental resources corrected. 05/27/11.

Sec. 14-622 Funding.

Funding for Phase I, II and III Environmental Site Assessments conducted by a non-county entity or individual on a contract basis shall be obtained in the following manner unless the county board ordains otherwise:

For land to be acquired for capital projects, from the appropriations for that capital project.

For land to be acquired for a purpose other than a capital project and for the sale, gift or trade of property, from the appropriations for that purpose in the budget for the Department of Parks and Land Use or any other source designated by the county board in appropriate legislation.

(Ord. No. 148-56, § 1, 9-14-93; Ord. No. 161-49, 10/24/06)

Editor's Note: This Article, which was previously the entirety of Chapter 28 of the Waukesha County Code prior to its recodification in 2003, was inadvertently left out of the recodified Code, and was separately included in this Chapter pursuant to Ord. 158-51, 08/12/03)

Editor's Note: Reference to department of environmental resources corrected. 05/27/11.

ARTICLE XIV. NONMETALLIC MINING RECLAMATION

Division 1. General Provisions

Sec. 14-701 Title.

The title of this ordinance is Waukesha County Nonmetallic Mining Reclamation Ordinance.

Sec. 14-702 Purpose and Intent.

The purpose of this ordinance is to adopt and implement effective reclamation requirements for nonmetallic mines in Waukesha County in compliance with uniform statewide standards under Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wis. Stats. The reclamation requirements are intended to rehabilitate nonmetallic mining sites, protect the environment and allow for other post-mining land uses. This ordinance is not intended to impair or interfere with any existing reclamation requirements that have been established for nonmetallic mines through local zoning prior to the effective date of this ordinance. This ordinance is also not intended to interfere with any existing zoning rules or regulations relating to the location, operation or end land use of a nonmetallic mining facility.

Sec. 14-703 Statutory Authority.

This ordinance is adopted under the authority of §§ 59.51 and 295.13(1), Wis. Stats. and Section NR 135.32, Wisconsin Administrative Code.

Sec. 14-704 Interpretation.

In their interpretation and application, the provisions of this ordinance shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by subchapter I of Chapter 295, Wis. Stats. and Chapter NR 135, Wisconsin

Administrative Code. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is unclear, the county shall interpret the intent of the provision to be consistent with the above noted statute and administrative code.

Sec. 14-705 Severability.

Should a court of competent jurisdiction declare any portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected.

Sec. 14-706 Applicability.

(a) The requirements and standards of this ordinance apply to all operators of nonmetallic mining sites within Waukesha County that conduct any mining activity on or after August 1, 2001, except for the following:

1. those sites that meet at least one of the exemption criteria under Sec. 14-707;

2. those sites where the majority of the site is located within a city, village or town that has adopted similar ordinance provisions pursuant to § 295.14 Wis. Stats, and Section NR 135.32(2), Wisconsin Administrative Code; or

(b) The requirements of this ordinance apply to nonmetallic mining conducted by or on behalf of the State of Wisconsin, by or on behalf of a municipality or for the benefit or use of the state or any state agency, board, commission or department, except for the waiver of financial assurance in Sec. 14-713.

(Ord. No. 162-16, §1, 6-12-07)

Sec. 14-707 Exemptions.

This ordinance does not apply to the following:

(a) Those portions of a nonmetallic mining site not used for nonmetallic mining or purposes related to nonmetallic mining after August 1, 2001;

(b) Separate, previously mined areas that are not used for nonmetallic mineral extraction after August 1, 2001 and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads;

(c) Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiles of materials used for an industrial process unrelated to nonmetallic mining;

(d) Grading conducted to restore land following a flood or natural disaster;

(e) Nonmetallic mining, excavations or grading by a person solely for domestic or farm use at that person's residence or farm;

(f) Nonmetallic mining at sites that affect less than one acre of total area over the life of the

mine;

(g) Dredging for navigational purposes, to construct or maintain a farm drainage ditch, to maintain water depth in an existing pond or storm water management facility or for the remediation of environmental contamination, and the disposal of spoils from these activities;

(h) Subject to the conditions under sub. (i), those sites or portions of a site subject to reclamation standards through other state regulations, including:

1. Nonmetallic mining subject to Wisconsin Department of Natural Resources water quality regulations under §§ 30.19, 30.195 or 30.20, Wis. Stats., and complies with Chapter NR 340, Wisconsin Administrative Code;

2. Excavations subject to the permit and reclamation requirements of §§ 30.30 or 30.31, Wis. Stats.

3. Any mining activity subject to ch. 293, Wis. Stats., which is related to metallic mining.

4. Any activities required to prepare, operate or close a solid waste disposal facility under ch. 289, Wis. Stats., or a hazardous waste disposal facility under ch. 291, Wis. Stats., that are conducted on the property where the facility is located. This exemption does not apply to off-site mining activities, such as obtaining minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

5. Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the Wisconsin Department of Transportation concerning the restoration of the nonmetallic mining site.

   A. This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the Wisconsin Department of Transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements. The duration of the exemption shall be specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.

   B. If a nonmetallic mining site covered under this subsection is used to concurrently supply materials for projects unrelated to the Wisconsin Department of Transportation project, this exemption still applies, provided that the site is fully reclaimed under Wisconsin Department of Transportation contract and supervision.

(i) The county may require documentation, such as a map of the affected area and certification from the applicable regulatory authority, prior to acknowledging that the site meets certain exemption criteria described under sub. (h).

Sec. 14-708 Administration.

The provisions of this ordinance shall be administered by the Waukesha County Department of Parks and Land Use - Land Resources Division, herein referred to as the county.

Sec. 14-709 Definitions.

In this ordinance:

(a) *Alternative requirement* means an alternative to the reclamation standards of this ordinance provided through a written authorization granted by the county pursuant to Sec. 14-716.

(b) *Applicable reclamation ordinance* means a nonmetallic mining reclamation ordinance, including this ordinance, that applies to a particular nonmetallic mining site and complies with the requirements of Chapter NR 135, Wisconsin Administrative Code and subchapter I of ch. 295, Stats., unless the Wisconsin Department of Natural Resources is the regulatory authority. If the Wisconsin Department of Natural Resources is the regulatory authority, "applicable reclamation ordinance" means the relevant and applicable provisions of Chapter NR 135, Wisconsin Administrative Code.

(c) *Borrow site* means an area outside of a transportation project site from which stone, soil, sand or gravel is excavated for use at the project site, except the term does not include commercial sources.

(d) *Contemporaneous reclamation* means the sequential or progressive reclamation of portions of the nonmetallic mining site affected by mining operations that is performed in advance of final site reclamation, but which may or may not be final reclamation, performed to minimize the area exposed to erosion, at any one time, by nonmetallic mining activities.

(e) *County* means the Waukesha County Department of Parks and Land Use - Land Resources Division.

(f) *Environmental pollution* has the meaning in § 295.11(2), Wis. Stats.

(g) *Financial assurance* means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in Sec. 14-713 and is sufficient to pay for reclamation activities required by this ordinance.

(h) *Highwall* means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that exceeds 3:1.

(i) *Landowner* means the person who has title to land in fee simple or who holds a land contract for the land. A landowner is not a person who owns nonmetallic mineral rights to land, if a different person possesses title to that land in fee simple or holds a land contract for that land.

(j) *Licensed professional geologist* means a person who is licensed as a professional geologist pursuant to ch. 470, Wis. Stats.

(k) *Licensed professional hydrologist* means a person who is licensed as a professional hydrologist pursuant to ch. 470, Wis. Stats.

(l) *Municipality* means any city, town or village.

(m) *Nonmetallic mineral* means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.

(n) *Nonmetallic mining* or *mining* means all of following:

1. Operations or activities at a nonmetallic mining site for the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator. Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading and dredging. Nonmetallic mining does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

2. Processes carried out at a nonmetallic mining site that are related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the nonmetallic mining site. These processes include, but are not limited to stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting, grading, crushing, screening, scalping and dewatering.

(o) *Nonmetallic mining reclamation* or *reclamation* means the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining reclamation plan approved under this ordinance, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.

(p) *Nonmetallic mining refuse* means waste soil, rock and mineral, as well as other natural site material resulting from nonmetallic mining. Nonmetallic mining refuse does not include marketable by-products resulting directly from or displaced by the nonmetallic mining that are scheduled to be removed from the nonmetallic mining site within a reasonable period of time after extraction.

(q) *Nonmetallic mining site* or *site* means all contiguous areas of land used or proposed to be used for purposes related to nonmetallic mining after August 1, 2001, including the following:

1. The location where nonmetallic mining is proposed or conducted.

2. Storage and processing areas that are in or contiguous to areas excavated for nonmetallic mining.

3. Areas where nonmetallic mining refuse is deposited.

4. Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining.

5. Areas where grading or regrading is necessary to conduct nonmetallic mining or to carry out an approved nonmetallic mining reclamation plan.

6. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, revegetation test plots, or channels for surface water diversion, are located.

(r) *Operator* means any person who is engaged in, or who has applied for a permit to engage in, nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

(s) *Person* means an individual, owner, operator, corporation, limited liability company, partnership, association, county, municipality, interstate agency, state agency, or federal agency.

(t) *Registered professional engineer* means a person who is registered as a professional engineer pursuant to §§ 443.04 and 443.09, Wis. Stats.

(u) *Replacement of topsoil* means the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post-mining land use and as required by the reclamation plan approved pursuant to this ordinance.

(v) *Solid waste* means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under ch. 283, Stats., or source material, special nuclear material or by-product material, as defined in s. 254.31 (1), Stats.

(w) *Topsoil* means the surface layer of soil which is generally more fertile than the underlying soil layers, which is the natural medium for plant growth and which can provide the plant growth, soil stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(x) *Topsoil substitute material* means soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(y) *Unreclaimed acre or unreclaimed acres* means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under Sec. 14-724(b). However the terms unreclaimed acre or unreclaimed acres do not include any areas described below:

1. Those areas where reclamation has been completed and certified as reclaimed under Sec. 14-724(b).

2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.
3. Those portions of nonmetallic mining sites which are included in a nonmetallic mining reclamation plan approved pursuant to this ordinance but are not yet affected by nonmetallic mining.
4. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials, provided the stockpiles are used for an on-site industrial process, such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
5. For purposes of fees under Sec. 14-722, those areas within a nonmetallic mining site which the county has determined to have been successfully reclaimed on an interim basis in accordance with Sec. 14-724(b).

Editor's Note: Sub section (y) was designated as section (w) when enacted by the County Board, but was relettered at the editor's discretion.

(Ord. No. 162-16, 6-12-07)

Division 2. Standards

Sec. 14-710 Standards.

(a) All nonmetallic mining sites subject to this ordinance shall be reclaimed in conformance with the standards contained below.

(b) *Refuse and Other Solid Wastes*. Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the Wisconsin Department of Natural Resources adopted pursuant to chs. 289 and 291, Wis. Stats.

(c) *Area Disturbed and Contemporaneous Reclamation*. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by mining and to provide for reclamation of portions of the mining site while mining continues on other portions of the site.

(d) *Public Health, Safety and Welfare*. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.

(e) *Habitat Restoration.* When the land use specified in the reclamation plan, approved pursuant to this ordinance, requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

(f) *Compliance with Environmental Regulations*. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.[1]

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[1]Note: Other applicable environmental, zoning or land use regulations may include Chapters NR 103, 115, 116, 117, 205, 216, 269, 105, 106, 140, 150, 340, 500-590, and 812, Wisconsin Administrative Code, chs. 30 and 91, Wis. Stats., and section 404 of the Clean Water Act (33 USC sec. 1344), which may be applicable to all or part of either an existing or proposed nonmetallic mining project, so long as they do not require or directly regulate the reclamation of nonmetallic mining sites as addressed under Subchapter I of Chapter 295, Wis. Stats .

(g) *Surface Water and Wetlands Protection*. Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Chapters NR 102 to NR 105, Wisconsin Administrative Code. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this ordinance. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

(h) *Groundwater Protection.*

1. *Groundwater quantity*. A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

2. *Groundwater quality*. Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Chapter NR 140, Wisconsin Administrative Code to be exceeded at a point of standards application defined in that ordinance.

(i) *Topsoil Management.*

1. *Removal*. Topsoil and topsoil substitute material shall be removed, protected and redistributed to support reclamation and site stabilization. Topsoil shall be managed as specified in the reclamation plan approved pursuant to this ordinance in order to achieve reclamation to the approved post-mining land use. Topsoil and topsoil substitute material removal shall be performed, as required by the reclamation plan, prior to any mining activity associated with any specific phase of the mining operation.

2. *Volume.* The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this ordinance.

3. *Storage*. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this ordinance, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

(j) *Final Grading and Slopes*.

1. All areas affected by mining shall be addressed in the reclamation plan approved pursuant to this ordinance to provide that a stable and safe condition consistent with the post mining land use is achieved. The reclamation plan may designate highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of

reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the county may require that either:

i) a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope; or

ii) the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.

2. Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following:

i) alternative requirements are approved under 14- 716;

ii) steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or

iii) stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer.

All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or the topsoil substitute material and the underlying material.

3. When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

(k) *Topsoil Redistribution for Reclamation.* Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this ordinance in a manner that minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

(l) *Revegetation and Site Stabilization.* Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this ordinance, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

(m) *Assessing Completion of Successful Reclamation.*

1. The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released under Sec. 14-724(c) shall be specified in the reclamation plan approved pursuant to this ordinance. Criteria to evaluate reclamation success shall be consistent with pre-existing soil conditions and the reclamation plan.

2. Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:

   A. On-site inspections by the county or its agent;
   B. Reports from the operator presenting results obtained during reclamation evaluations including summarized data on revegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or
   C. A combination of inspections and reports.

3. In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.

4. Revegetation success may be determined by:

   A. Comparison to an appropriate reference area;
   B. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
   C. Comparison to an approved alternate technical standard.

5. Revegetation using a variety of plants indigenous to the area is favored.

(n) *Intermittent Mining.* Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or off-site deposition of sediments is occurring, and financial assurance for reclamation pursuant to Sec. 14-713 is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

(o) *Maintenance.* During the period of the site reclamation, after the operator has stated that reclamation is complete, but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this ordinance, or to meet the goals specified in the reclamation plan approved pursuant to this ordinance.

(Ord No. 162-16, §2-4, 6-12-07)

Division 3. Permitting

Sec. 14-711 Nonmetallic Mining Reclamation Permit Application.

(a) *Permit Application Required.* No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to this ordinance unless the activity is specifically exempted in 14-706 or 14-707. All applications for reclamation permits under this section shall be submitted on a form provided by the county, including the following information:

1. A brief description of the general location and nature of the nonmetallic mine.
2. A legal description of the property on which the nonmetallic mine is located or proposed, including the tax parcel identification number(s).
3. The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.
4. The name, address and telephone number(s) of the person(s) or organization serving as the operator and the primary contact for the review of reclamation plans.

(Ord. No. 162-16, 06-12-07)

(b) Reserved.

Editor's Note: Former Sec 14-711(b) was repealed by Ord. No. 162-16, 06-12-07.

(c) *Required Submittals.* The operator of any nonmetallic mining site that plans to engage in mining shall submit all the items specified below prior to commencing nonmetallic mining activities:

1. A completed application form, in accordance with sub. (a);
2. The plan review and annual fees required by Sec. 14-721 and Sec. 14-722 respectively;
3. A reclamation plan conforming to Sec. 14-712; and
4. A certification, on a form provided by the county, and signed by the operator that he or she will provide, as a condition of the reclamation permit, financial assurance, as required by Sec. 14-713.

(Ord. No. 162-16, §7, 06-12-07)

(d) *New Mines and Other Permits.*
The operator of any nonmetallic mining site that engages in or plans to engage in mining that will begin after August 1st, 2001, or which has not applied for an automatic reclamation permit pursuant to sub. (b) shall submit all the items specified below prior to commencing nonmetallic mining activities:

1. A completed application form, in accordance with sub. (a);
2. The plan review and annual fees required by Sec. 14-721 and Sec. 14-722 respectively;
3. A reclamation plan conforming to Sec. 14-712; and
4. A certification, on a form provided by the county, and signed by the operator that he or she will provide, as a condition of the reclamation permit, financial assurance, as required by Sec. 14-713.

(e) *Expedited Review.*
Any permit applicant may request expedited review in writing during the permit application process under this section. The following shall apply to these requests:

1. The request shall state the need for such expedited review and the date by which such expedited review is requested.
2. The additional fee for expedited reviews, established by the county under Sec. 14-721, shall be paid at the time of application.
3. Following receipt of a request for an expedited review, the county shall inform the applicant of the estimated date for decision on issuance of the permit.
4. If the applicant then elects not to proceed with the expedited review, the additional expedited review fee shall be returned.
5. Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to Sec. 14-714. This subsection does not impose an obligation upon the county to act upon a permit application under this subsection by a specific date.

Sec. 14-712 Reclamation Plan.

(a) *Reclamation Plan Requirements.* Reclamation Plan Requirements. All operators of nonmetallic mining sites subject to this ordinance shall prepare and submit a reclamation plan that meets the requirements of this section.

1. *Plan Standards*. All reclamation plans shall comply with the standards of Sec. 14-710. All plan view maps shall be at a scale of 1 inch equals no more than 100 feet, or at a scale approved by the county. Cross-section and profile drawings shall be of sufficient scale and detail to clearly show the required elements described below. All maps shall meet national map accuracy standards for the scale they are drawn and meet county standards for horizontal and vertical control.

2. *Existing Site Information.* The reclamation plan shall include information sufficient to describe the existing natural and physical conditions of the site, including, but not limited to:

   A. Plan view maps and /or cross-section drawings of the nonmetallic mining site including the general location (at a smaller scale), property boundaries and dimensions, the areal extent, delineation, labeling and measurement (in acres) of the general use of each area on the site (see "nonmetallic mine" definition), the geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil the approximate elevation of ground water, the location of surface waters, existing drainage patterns, and existing topography, with spot elevations and contours at 2 foot contour intervals, except where slope is greater than 30%, where the contour interval may be 5 feet or other contour interval as approved by the county. In specific instances where the existing hydrogeologic information is insufficient for purposes of the reclamation plan, the applicant may supplement such information with the opinion of a professional geologist or hydrogeologist.

   B. Delineate from existing biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine site. These maps shall also delineate existing shorelands, floodplains, wetlands, and primary environmental corridors, as defined by the county.

C. Location of manmade features on or near the site.

D. For proposed nonmetallic mine sites that include previously mined areas, the plan view map or cross-section drawing under par. A. must also show the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.

3. *Post-mining Land Use.*

A. The reclamation plan shall specify a proposed postmining land use for the nonmetallic mine site. The proposed postmining land use shall be consistent with local land use plans and local zoning at the time the plan is submitted, unless a change to the land use plan or zoning is proposed. The proposed post-mining land use shall also be consistent with all applicable local, state, or federal laws in effect at the time the plan is submitted.

B. Land used for nonmetallic mineral extraction in areas zoned under an exclusive agricultural use ordinance pursuant to s. 91.32, Wisconsin Stats., shall be restored to agricultural use.

4. *Reclamation Measures.* The reclamation plan shall include a description of the proposed reclamation, including methods and procedures to be used and a proposed schedule and sequence for the completion of reclamation activities for various stages of reclamation of the nonmetallic mining site. The following shall be included:

A. A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures and if necessary a site specific engineering analysis performed by a registered professional engineer as provided by 14-710(j)(1) and (2).

B. The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.

C. A plan view map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.

D. A plan or map which shows surface structures, roads and related facilities after the cessation of mining.

E. The estimated square yards or acres and cost, based on average costs, to complete the reclamation for each stage of the project or the entire site if reclamation staging is not planned.

F. A revegetation plan which shall include timing and methods of seed bed preparation, rates and kinds of soil amendments, seed application timing, methods and rates, mulching, netting, matting, and any other techniques needed

to accomplish soil and slope stabilization.

G. Quantifiable standards, in accordance with Sec. 14-710, for revegetation to show that a sustainable stand of vegetation has been established which will support the approved post-mining land use. Other standards for revegetation may be based on the percent vegetative cover, productivity, plant density, diversity or other applicable measures.

H. A plan and, if necessary, a narrative showing and explaining erosion control measures to be employed during reclamation activities. These shall address how reclamation activities will be conducted to minimize soil erosion and pollution of surface and groundwater.

I. A description of any areas which will be reclaimed on an interim basis sufficient to qualify for the waiver of fees pursuant to Sec.14-724(c) and which will be subsequently disturbed prior to final reclamation. Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in Sec.14-710 and sequence of interim and final reclamation.

J. A description of how the reclamation plan addresses the long-term safety of the reclaimed mining site. The description shall include a discussion of site-specific safety measures to be implemented at the site and include measures that address public safety with regard to adjacent land use. Note: Safety measures include: visual warnings, physical barriers, slope modifications such as reclamation blasting, scaling of the rock face, or creation of benches. Other measures may be employed if found to be equivalent by a registered professional engineer.

5. *Plan Criteria for Success*. The reclamation plan shall contain criteria for assuring successful reclamation in accordance with Sec.14-710(c).

6. *Certification of Reclamation Plan.* The operator shall provide the county a signed certification that reclamation will be carried out in accordance with the proposed reclamation plan. The operator or landowner shall also provide the county with written documentation that the landowner or lessor, if different from the operator or owner, concurs with the reclamation plan and will allow its implementation.

(b) *Review and Approval of Reclamation Plan.* The county shall approve, conditionally approve or deny the reclamation plan submitted under this section in accordance with the procedures under Sec.14-715.

(c) *Operator Documentation.* Once a reclamation plan is approved by the county under Sec. 14-715, the operator shall keep a copy of the approved plan at the mine site or, if not practicable, at the operator's nearest office or place of business.

(Ord. No. 162-16, 06-12-07)

Sec. 14-713 Financial Assurance Requirements.

(a) *Applicability*. Except for the State of Wisconsin, a state agency, board, commission or

department, a county or municipality, and permits under Sec.14-715(d) (for local transportation-related mines), all operators of nonmetallic mining sites subject to this ordinance shall prepare and submit a proof of financial assurance that meets the following requirements.

(b) *Notification.* The county shall provide written notification to the operator of the amount of financial assurance required under sub. (d).

(c) *Filing.* Following approval of the nonmetallic mining reclamation plan, and as a condition of issuing the permit, the operator shall file a financial assurance with the county. The financial assurance shall provide that the operator shall faithfully perform all requirements in this ordinance, and the reclamation plan. Financial assurance shall be payable exclusively to the county, unless a cooperative arrangement is made under sub. (g).

(d) *Amount and Duration of Financial Assurance*. The amount of financial assurance shall equal as closely as possible the cost to the county of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved reclamation plan. The county shall consider the estimated costs under Sec.14-712(a)(4)E in determining the amount of the financial assurance. The amount of financial assurance shall be reviewed periodically by the county to assure it equals outstanding reclamation costs. Any financial assurance filed with the county shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. The county may accept a lesser initial amount of financial assurance provided that the permittee initiates a process to continuously increase the amount of financial assurance until it is adequate to effect reclamation. An escrow account may be established that is based on production gross sales and serves to provide regular payments to an account that is designed to grow to the amount necessary to guarantee performance of reclamation by the expected time of final reclamation. The period of the financial assurance is dictated by the period of time required to establish the post mining land use stated in an approved reclamation plan. This may extend beyond the permit if required to accomplish successful and complete implementation of the reclamation plan.

(e) *Form and Management*. Financial assurance shall be provided by the operator and shall be by a bond or an alternate financial assurance. Financial assurance shall be payable to the county. Possible forms of financial assurances may include, but are not limited to bonds, cash, certificates of deposits, irrevocable letters of credit, irrevocable trusts, established escrow accounts, demonstration of financial responsibility by meeting net worth requirements, or government securities. Any interest earned from the financial assurance shall be paid to the operator. Certificates of deposit, letters of credit and other types of assurances that may contain a maturity date shall be automatically renewable or have other assurances provided to the county at least 30 days before the maturity date. Financial assurance arrangements may include, at the discretion of the county, a blend of different options for financial assurance including a lien on the property on which the nonmetallic mining site occurs or a combination of financial assurance methods.

(f) *Multiple Projects*. Any operator who obtains a permit from the county for 2 or more nonmetallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each nonmetallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by the county.

(g) *Multiple Jurisdictions.* In cases where more than one regulatory authority has jurisdiction, a

cooperative financial assurance arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same nonmetallic mining site. Financial assurance is required for each site subject to the provisions of this ordinance.

(h) *Release*. The county shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site upon certifying the completion of reclamation requirements in accordance with Sec. 14-724.

(i) *Forfeiture.* Financial assurance shall be forfeited if any of the following occur:

1. A permit is revoked under Sec. 14-719 and the appeals process has been completed.

2. An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.

(j) *Cancellation.* Financial assurance shall provide that it may not be cancelled or otherwise expired by the surety or other holder or issuer without a 90 day notice to the county in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to the county a replacement proof of financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

(k) *Changing Methods of Financial Assurance.* The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to sub. (m). The operator shall give the county at least 60 days notice prior to changing methods of financial assurance and may not actually change methods without the written approval of the county.

(l) *Bankruptcy Notification.* The operator of a nonmetallic mining site shall notify the county by certified mail of the commencement of voluntary or involuntary proceeding under bankruptcy code, 11 USC, et seq., naming the operator as debtor, within 10 days of commencement of the proceeding.

(m) *Adjustment of Financial Assurance.* Financial assurance may be adjusted when required by the county. The county may notify the operator in writing that adjustment is necessary and the reasons for it. The county may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.

(n) *Net Worth Test.*

1. Only an operator that meets the definition of "company" in § 289.41 (1) (b), Wis. Stats., may use the net worth method of providing financial assurance.

2. The operator shall submit information to the regulatory authority in satisfaction of the net worth test requirements of § 289.41 (4), Wis. Stats. The criteria in §§ 289.41 (6) (b), (d), (e), (f), (g), (h) and (i), Wis. Stats., shall apply.

3. An operator using the net worth test to provide financial assurance for more than one mine shall use the total cost of compliance for all mines in determining the net worth to

reclamation cost ratio in accordance with s. 289.41 (6), Stats.

4. Determinations under the net worth test shall be done in accordance with s. 289.41 (5), Stats.

5. In addition, the operator shall submit a legally binding commitment to faithfully perform all compliance and reclamation work at the mine site that is required under this ordinance.

Sec. 14-714 Public Notice and Right of Hearing.

(a) *Public Notice Requirements*.

1. *Required.* The requirements of public notice under sub. (b) shall only apply to the following nonmetallic mining permit applications:

   A. Those for all new nonmetallic mines, and
   B. Those for permit modifications where the changes are substantial in their scope or impact on the landscape, as determined by the county.

2. *Not Required.* The public notice requirements under sub. (b) shall not apply to any permit application for a mine under Sec. 14-711(b) (for local transportation-related mines).

(b) *Public Notice Procedure.* Subject to the applicability provisions under sub. (a), the county shall, prior to issuing a permit under Sec.14-715, provide public notice and the opportunity for a public informational hearing as described below:

1. *Public Notice.*

   A. Within 30 days after the county has received all the application materials under Sec. 14-711, the county shall publish a class 1 public notice in the official newspaper of the county.

      i. The notice shall do all of the following: Provide a brief description and location of the proposed nonmetallic mining and reclamation planned;

      ii. Announce the date, time and place of any scheduled zoning hearing, where the public is offered the opportunity to submit comments to the county concerning the reclamation plan. If no zoning hearing is scheduled, the notice shall explain the procedures for requesting a public hearing in accordance with par. (2); and

      iii. Provide the location and times that the public may review the reclamation plans that have been prepared to satisfy the requirements of this ordinance.

2. *Hearing.* The county shall provide for an opportunity for a public informational hearing on an application or request to issue a nonmetallic mining reclamation permit. The

informational hearing may be conducted jointly with a local zoning authority.

A. If a zoning-related hearing is conducted on the nonmetallic mine site, the county shall provide the opportunity at this hearing for the public to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this section. The county shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this ordinance.

B. If there is no opportunity for a joint zoning-related hearing on the nonmetallic mine site as described in par. A., the county shall only be required to conduct a hearing if a request is received in accordance with par. i below.

i. Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. If a request is received by any of these persons within 30 days of the actual date of public notice under sub. (b)(1), the county shall hold a public hearing in accordance with pars. ii and iii below.

ii. A public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested, in accordance with par. i. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation.

iii. The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

(Ord. No. 162-16, 06-12-07)

Sec. 14-715 Nonmetallic Mining Reclamation Permit.

(a) *Permit Required*. No person may engage in nonmetallic mining or nonmetallic mining reclamation in Waukesha County without first obtaining a reclamation permit issued pursuant to this ordinance. All applications for permits under this ordinance shall be processed by the county in accordance with the applicable procedures described below.

(b) *Permit Application Review Process.* Permit applications that are received under the requirements of Sec. 14-711 shall be reviewed and acted on in accordance with the following procedures:

1. Within 90 days of receipt of all the required application materials the county shall:

A. Determine if the applicable requirements of this ordinance have been met;
B. Determine if there is a need for additional information, or changes to the reclamation plans or other materials, to comply with this ordinance;
C. Notify the applicant of the results of the determinations under par. A through B,

including what additional information or changes are needed. Notification shall be in written or electronic form, unless otherwise waived by the applicant.

2. If the county determines that all of the requirements of this ordinance have been met, and no public notice is required under Sec. 14-714(a), all the submittals shall be approved by the county and a permit shall be issued upon compliance with the financial assurance provisions under Sec. 14-713.

3. If the county approves all the materials submitted, and determines that a public informational hearing is required under Sec. 14-714(a) the county shall publish a public notice in accordance with Sec. 14-714(b).

4. Any resubmittals under this subsection shall be subject to the procedures in par. (1) through (3).

5. The county may approve the reclamation plan and other submittals with conditions that it deems necessary to ensure compliance with the requirements of this ordinance. The approvals may not include conditions that are not related to reclamation.

6. The county may deny a permit application in accordance with sub. (d).

(c) *Automatic Permit for Local Transportation-Related Mines.* The following conditions and procedures shall apply to all permit applications that are received under Sec. 14-711(c):

1. The county shall accept the contractual provisions incorporating requirements of the Wisconsin Department of Transportation in lieu of a reclamation plan under Sec. 14-712.

2. The county shall accept the contractual provisions in lieu of the financial assurance requirements in Sec. 14-713.

3. The public notice and hearing provisions of Sec. 14-714 do not apply to nonmetallic mining sites that are issued automatic permits under this subsection.[2]

4. Within 7 days of receipt of the information under Sec. 14-711(c)(2), the county shall determine if all of the conditions of this subsection have been met and shall notify the applicant of the results of this determination in written or electronic form. If all conditions have been met, the county shall issue an automatic permit. If all the conditions have not been met, any resubmittals shall be subject to the same timeline for review.

5. Mines permitted under this subsection shall pay an annual fee to the county as provided in Sec. 14-722, but shall not be subject to the plan review fee provided in Sec. 14-721.

6. Notwithstanding Sec. 14-720, the operator of a borrow site under this subsection is required to submit only the information in an annual report necessary to identify the borrow site and to determine the applicable annual fee.

[2]Note: Local public notice and hearing requirements, if any, regarding zoning decisions still apply.

(d) *Permit Denial.* An application for a nonmetallic mining reclamation permit shall be denied as set forth below:

1. An application to issue a nonmetallic mining reclamation permit shall be denied, within the time frame for permit issuance specified in this section, if the county finds any of the following:

   A. The applicant has, after being given an opportunity to make corrections, failed to provide to the county an adequate permit application, reclamation plan, financial assurance or any other submittal required by Chapter NR 135, Wisconsin Administrative Code or this ordinance.

   B. The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained in this ordinance, Chapter NR 135, Wisconsin Administrative Code or Subchapter I of Chapter 295, Wis. Stats.

   C. The applicant, or its agent, principal or predecessor has, during the course of nonmetallic mining in Wisconsin within 10 years of the permit application or modification request being considered, shown a pattern of serious violations of this ordinance or of federal, state or local environmental laws related to nonmetallic mining reclamation. The following may be considered in making this determination of a pattern of serious violations:

      i. Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.

      ii. Suspensions or revocations of nonmetallic mining reclamation permits pursuant to this ordinance, other reclamation ordinances or Chapter NR 135, Wisconsin Administrative Code.

      iii. Forfeitures of financial assurance.

   D. A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.

2. A decision to deny an application to issue a reclamation permit may be reviewed under Sec. 14-726.

(e) *Expedited Reviews.* Expedited reviews requested under Sec. 14-711 are subject to the same determinations and other procedures described under sub. (c). The timelines for expedited reviews shall be as established by the county under Sec.14-711(e).

(f) *Permit Conditions.* Any decision under this section may include conditions as provided below:

1. The county may issue a reclamation permit or approve a reclamation plan subject to general or site-specific conditions if needed to assure compliance with the nonmetallic mining reclamation requirements of this ordinance.

2. One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to Sec. 14-713 prior to beginning mining.

(g) *Permit Duration.*

1. A nonmetallic mining reclamation permit issued under this ordinance shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to Sec. 14-719.

2. If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to sub. (i).

(h) *Permit Transfer*. A nonmetallic mining reclamation permit issued under this ordinance shall be transferred to a new owner or operator upon satisfaction of the following conditions:

1. A nonmetallic mining reclamation permit may be transferred to a new operator upon submittal to the county of proof of financial assurance and a certification in writing by the new permit holder that all conditions of the permit will be complied with.

2. The transfer is not valid until financial assurance has been submitted by the new operator and accepted by the county and the county makes a written finding that all conditions of the permit will be complied with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.

(Ord. No. 162-16, 06-12-07)

Sec. 14-716 Alternative Requirements.

(a) *Scope of Alternative Requirements Approvable*. An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in Sec. 14-710. The county may approve an alternative requirement to the reclamation standards established in this ordinance if the operator demonstrates and the county finds that all of the following criteria are met:

1. The nonmetallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic which requires an alternative requirement.

2. Unnecessary hardship which is peculiar to the nonmetallic mining site or plan will result unless the alternative requirement is approved.

3. Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.

(b) *Procedures.*

1. The operator of a nonmetallic mining site requesting an alternate requirement under sub.

(a) shall demonstrate all the criteria in sub. (a). This shall be submitted in writing to the county.

2. The county shall, within 90 days of receipt of the request, approve, conditionally approve or deny the request in writing, based on the counties determination of compliance with the criteria under sub. (a). The written response shall include reasons and documentation as to why the request was or was not approved.

3. A request for an alternative requirement may be incorporated as part of an application to issue or modify a nonmetallic mining reclamation permit.

(c) *Notice to Wisconsin Department of Natural Resources.* A copy of any written decision on alternative requirements shall be submitted to the Wisconsin Department of Natural Resources within 10 days of issuance.

Sec. 14-717 Previously Permitted Sites.

For any nonmetallic mining site that had a reclamation permit previously issued by another regulatory authority pursuant to Chapter NR 135, Wisconsin Administrative Code, and later becomes subject to reclamation permitting authority of the county, the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by the county pursuant to Sec. 14-718(a).[3]

Division 4. Administration

Sec. 14-718 Permit Modification.

(a) *By the County*. A nonmetallic mining reclamation permit issued under this ordinance may be modified by the county if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with Chapter NR 135, Wisconsin Administrative Code or this ordinance. Such modification shall be by an order modifying the permit in accordance with Sec. 14-727. This modifying order may require the operator to amend or submit new application information, reclamation plan, proof of financial assurance or other information needed to ensure compliance with Chapter NR 135, Wisconsin Administrative Code or this ordinance.

(b) *At the Operator's Option.* If an operator of any nonmetallic mine that holds a reclamation permit issued under this ordinance desires to modify such permit or reclamation plan approved under this ordinance, it may request such modification by submitting a written application for such modification to the county on a form provided by the county. The application for permit or plan modification shall be acted on using the standards and procedures of this ordinance.

(c) *Required by the Operator*. The operator of any nonmetallic mine that holds a reclamation permit issued under this ordinance shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the reclamation plan approved pursuant to this ordinance. Such application for permit modification shall be acted on using the standards and procedures of this ordinance.

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[3]Note: This could happen if, for example, a municipality's program was terminated by the municipality or revoked by the Department - in such cases nonmetallic mine sites would revert to a county program.

(d) *Review.* All actions by the county on permit modifications requested or initiated under this section are subject to review under Sec. 14-726.

Sec. 14-719 Permit Suspension and Revocation.

(a) *Grounds.* The county may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this ordinance if it finds the operator has done any of the following:

1. Failed to submit a satisfactory reclamation plan within the time frames specified in this ordinance.
2. Failed to submit or maintain financial assurance as required by this ordinance.
3. Failed on a repetitive and significant basis to follow the approved reclamation plan.

(b) *Procedures.* If the county finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in sub. (a), it may issue a special order suspending or revoking such permit as set forth in Sec. 14-727.

(c) *Consequences.*

1. If the county makes any of the findings in sub. (a), it may suspend a nonmetallic mining reclamation permit for up to 30 days. During the time of suspension, the operator may not conduct nonmetallic mining at the site, except for reclamation or measures to protect human health and the environment as ordered by the county pursuant to Sec. 14-727.

2. If the county makes any of the findings in sub. (a), it may revoke a nonmetallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this ordinance to the county. The county may use forfeited financial assurance to reclaim the site to the extent needed to comply with this ordinance and the applicable reclamation plan.

Sec. 14-720 Annual Operator Reporting.

(a) *Contents and Deadline.* All operators shall submit annual reports to the county, on forms provided by the county, that satisfy the requirements of this section.

1. *Contents.* The annual report required by this section shall include all of the following:

   A. The name and mailing address of the operator.

   B. The location of the nonmetallic mining site, including legal description, tax key number or parcel identification number if available.

   C. The identification number of the applicable nonmetallic mining permit, if assigned by the county.

   D. The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.

E. The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.

F. An aerial photo or map, with a scale of 1 inch equals no more than 100 feet or other scale approved by the county, accurately showing the acreage described in par. D and E.

G. The following certification, signed by the operator:
"I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mining reclamation permit and Chapter NR 135, Wisconsin Administrative Code."

2. *Deadline.* The annual report shall cover activities on unreclaimed acres for the previous calendar year and be submitted by March 1.

3. *When Reporting May End.* Annual reports shall be submitted to the county by an operator for all active and intermittent mining sites for each calendar year until reclamation at the site is certified as complete pursuant to Sec. 14-724(b).

(b) *Inspection in Lieu of Report.* The county may, at its discretion, obtain the information required in sub. (a) for a calendar year by written documentation or an inspection it completes during a calendar year, as set forth in this subsection. If the county obtains and documents the required information, the operator does not need to submit the annual report. If the county determines that the operator need not submit an annual report pursuant to this subsection, it shall advise the operator in writing at least 30 days before the end of the applicable calendar year. In that case, the county shall require the operator to submit the certification required in sub. (a)(1)G.

(c) *Retention of Annual Reports.* Annual reports submitted under sub. (a) or inspection records that replaces them under sub. (b) shall be retained by the county for at least 10 years after the calendar year to which they apply. These records, or complete and accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

(Ord. No. 162-16, 06-12-07)

Sec. 14-721 Plan Review Fees.

(a) *Amount and Applicability.* All permit applicants under Sec. 14-711 shall submit a non-refundable plan review fee in accordance with the fee schedule shown in Table 3, Section NR 135.39(5), Wisconsin Administrative Code, unless modified by the county through the annual budget process. No other permit applicants under this ordinance shall be subject to this fee. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to Sec. 14-718.

(b) *Expedited Plan Review Fee*. Any permit applicant requesting expedited review by the county under Sec. 14-711 shall pay the expedited review fee established by the county through the annual budget process. Such fee shall be in addition to that required in sub. (a).

(c) *Relation to Annual Fee.* Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be in addition to the annual fees collected by the county under Sec. 14-722.

(Ord. No. 162-16, 06-12-07)

Sec. 14-722 Annual Fees.

(a) *Areas Subject to Fees, Procedures and Deadline.*

1. *General.* Operators of all nonmetallic mining sites subject to reclamation permits issued under this ordinance shall pay annual fees to the county. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under sub. (b) and a share for the county under sub. (c). The county share shall equal as closely as possible the costs of examination and approval of nonmetallic mining reclamation plans and the inspection of nonmetallic mining sites.

2. *Areas Subject to Fees.* Fees paid under this section shall be calculated by the county based on the number of "unreclaimed acres", as defined in Sec. 14-709, present on a nonmetallic mining site at the end of each calendar year.

3. *Procedures and Deadlines.* Fees assessed pursuant to this section shall be paid to the county no later than March 1 of the subsequent year.

4. *Fees Prior to Reclamation Certification.* If reclamation has already occurred on portions of a nonmetallic mining site, the fees for such portions may be submitted with a request that they be held by the county pending certification of completed reclamation pursuant to Sec. 14-724(b). Upon such certification the county shall refund that portion of the annual fee that applies to the reclaimed areas.

(b) *Wisconsin Department of Natural Resources Share of Fee.* Fees paid under this section shall include a share for the Wisconsin Department of Natural Resources equal to the amount specified in NR 135. This share of the fees shall be used to support the department's statewide cost to inspect, enforce, consult with and audit local nonmetallic mining reclamation programs under NR 135.

(c) *The County's Share of Fee.* Fees paid under this section shall also include an annual fee due to the county, which shall be as shown in Table 2, Section NR 135.39(4) Wisconsin Administrative Code unless modified by the county through the annual budget process. By state law, county fees under this section may only be used to support reasonable expenses associated with administration of this ordinance.

(Ord. No. 162-16, 06-12-07)

Sec. 14-723 Regulatory Reporting and Documentation.

The county shall provide an annual report to the Wisconsin Department of Natural Resources by March 31 of each year. The report shall include the information required as part of the implementation of the reclamation program pursuant to Chapter NR 135, Wisconsin Administrative Code.

Sec. 14-724 Completed Reclamation - Reporting, Certification and Effect.

(a) *Reporting of Completed Reclamation.* The operator of a nonmetallic mining site may report to the county completion of reclamation or interim reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this ordinance. Any report under this subsection shall be made on a form provided by the county.

(b) *Certification of Completed Reclamation.*

1. The county shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing of one of the following:

   A. Reclamation or interim reclamation is not yet complete;
   B. It is not possible to assess whether reclamation or interim reclamation is complete due to weather conditions, snow cover or other relevant factors;
   C. Reclamation or interim reclamation is complete in a part of the mine; or
   D. Reclamation or interim reclamation is fully complete.

2. If it is determined under par. 1 that reclamation or interim reclamation is complete, including revegetation as specified in a reclamation plan that conforms with the standards contained in Sec. 14-710, the county shall issue the mine operator a written certificate of completion for the applicable area.

(c) *Effect of Reclamation Certification.* If reclamation is certified by the county as complete under sub. (b) for part or all of a nonmetallic mining site, then:

1. No future annual fees shall be assessed under Sec. 14-722 for the area so certified.
2. The financial assurance required by Sec. 14-713 shall be released or appropriately reduced in the case of completion of final reclamation for a portion of the mining site.
3. For sites which are certified as interim reclaimed under Sec. 14-724(b) financial assurance for reclaiming the certified area may be reduced only if the county determines that the balance is sufficient to ensure final reclamation of the entire site.

(d) *Effect of Inaction Following Report of Completed Reclamation.* If the county provides no written response within 60 days, as required by sub. (b) for an area of the mine site reported as reclaimed or interim reclaimed, any annual fee paid to the county for the affected area under Sec. 14-722 shall be refunded.

Sec. 14-725 Permit Termination.

When all final reclamation required by a reclamation plan conforming to Sec. 14-712, and required by this ordinance, is certified as complete pursuant to Sec. 14-724(b), the county shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

Sec. 14-726 Appeals.

Any permitting decision or action made by the county under this ordinance may be reviewed as set forth in this section. Notwithstanding §§. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Wis. Stats., any person who meets the requirements of §. 227.42 (1), Wis. Stats., may obtain a contested case hearing

under §. 68.11, Wis. Stats., on the county 's decision to issue, deny or modify a nonmetallic mining reclamation permit.

Division 5. Enforcement

Sec. 14-727. Enforcement.

The following provisions shall apply to the enforcement of this ordinance:

(a) *Right of Entry and Inspection.* For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, agent, employee or representative of the county may inspect any nonmetallic mining site subject to this ordinance as provided below:

1. No person may refuse entry or access onto a nonmetallic mining site of a duly authorized officer, employee or agent of the county who presents appropriate credentials to inspect the site for compliance with, this ordinance.

2. Any person who enters the site under this right of inspection shall be responsible for obtaining training and providing their own safety equipment needed to comply with any federal, state or local laws or regulations controlling persons on the nonmetallic mining site.

(b) *Violations.* Any violation of this ordinance shall be subject to any or all of the enforcement provisions under this section.

(c) *Enforcement Orders.* The county may issue orders, including an order to cease all activity regulated under this ordinance, until full compliance with the provisions of this ordinance is obtained by the operator.

(d) *Suspending or Revoking a Permit.* The county may issue a special order suspending or revoking a nonmetallic mining reclamation permit pursuant to Sec. 14-719.

(e) *Review of Orders.* A person holding a reclamation permit who is subject to an order pursuant this section shall have the right to review the order in a contested case hearing under s. 68.11, Stats., notwithstanding the provisions of ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats.

(f) *State or County Enforcement.* The county may submit any order issued under this section to abate violations of this ordinance to a district attorney, corporation counsel, municipal attorney or the attorney general for enforcement. The district attorney, corporation counsel, municipal attorney or the attorney general may enforce those orders.

(g) *Forfeiture of Financial Assurance.* The county may use the financial assurance under Sec. 14-713 to ensure compliance with the reclamation plan and this ordinance through private contracts or force account work.

Sec. 14-728 Penalties.

Any violation of, this ordinance, a permit issued pursuant to this ordinance or a reclamation plan required

by Sec. 14-712 may result in forfeitures of not less than $10 nor more than $5,000 for each violation. Each day of continued violation is a separate offense. While an order issued under this section is suspended, stayed or enjoined, this penalty does not accrue.

(Ord. No. 156-22, 7/24/01; Ord. 159-68, 11/23/04)

Editor's Note: This Article was placed in this Chapter pursuant to Ord. 159-68, 11/23/04.

Secs. 14-729 – 739 Reserved.

ARTICLE XV. DANCE HALLS

Sec. 14-740 Definitions.

For purposes of this article:

Dance or *ball* shall be taken to mean any dance or ball to which admission can be had by the public generally by payment of a fee or by the purchase, possession or presentation of a ticket or token, or in which a charge is made for caring for clothing or other property, or other dance to which the public generally, without any restriction, may gain admission, with or without payment of a fee.

Dance hall shall be taken to mean any room, place or space in which a public dance, public ball, live music or entertainment may be conducted. This code does not apply to any public or parochial school or church hall when used for public dances under the auspices of the school, church authorities, or parent-teachers' association.

Department shall mean the Department of Parks and Land Use.

Inspection means the inspection performed by the department when there is a change of owner and/or operator of a dance hall and the opening of a new dance hall.

(Ord. No. 147-45, § 1(A), 7-28-92; Ord. No. 160-26, §1, 7-22-05)

Sec. 14-741 Inspection-Application.

(a) Before being open for public dancing, each establishment in the county must be inspected by the department, if not licensed by the local community. Application for an inspection by the department shall be made on forms provided by the department. Inspections shall occur annually.

(b) Upon application by the owner or agent, submission of the inspection fee, and inspection by department personnel, a letter of approval may be issued provided the inspection of the premise indicates reasonable compliance with the requirements of this article.

(c) The letter of approval shall expire on June 30 each year.

(d) The letter of approval may be suspended or revoked due to violations of this article.

(e) Copies of plans shall be submitted to the department prior to the construction, remodeling or

renovation of a dance hall.

(f) Letters of approval are nontransferable either from one entity to another or from one person to another. It is the responsibility of the letter recipient to notify the department in writing when a change in ownership occurs and also supply the department with the names and post office addresses of any new owners.

(Ord. No. 147-45, § 1B, 7-28-92; Ord. No. 160-26, §1, 7-22-05)

Sec. 14-742 Same-Compliance with standards.

No person or business entity may operate a dance hall or hold a dance until inspection by the county department of parks and land use confirms that the premises reasonably complies with the following:

1. The water supply is safe and potable and the visible well construction substantially complies with Chapter NR 811 of the Wisconsin Administrative Code.

2. The premise has an adequate and properly functioning private sewage system or is served by a municipal sewer.

3. There shall be a designated area consisting of a smooth, hard-surfaced, unobstructed floor area available to reasonably accommodate the number of dance patrons planned for (estimate ten (10) square feet per person).

4. This designated area shall not be adjacent to the bar area or kitchen entrance, if applicable, and shall not obstruct entrance to the establishment or any exits from the establishment.

5. The establishment and premises shall be kept in a clean, sanitary, and well-maintained condition to prevent any health or safety hazard from occurring.

(Ord. No. 147-45, § 1(C), 7-28-92; Ord. No. 160-26, §1, 7-22-05)

Sec. 14-743 Wisconsin Administrative Code provisions adopted by reference.

The following Wisconsin Administrative Code chapters, as from time to time amended, are hereby adopted by reference and made part of this article as if fully set forth herein:

Chapter Comm 75 - Definitions and general requirements
Chapter Comm 76 - Factories, office and mercantile buildings
Chapter Comm 77 - Theaters and assembly halls
Chapter Comm 78 - Schools and other places of instruction
Chapter Comm 79 - Apartment houses, hotels and places of detention

(Ord. No. 160-26, §1, 7-22-05)

Sec. 14-744. Fees.

(a) Fees shall be set by the department in fee schedules on file in the department and in the office

of the county clerk.

(b) Fees will be imposed for the following:

1. Inspections.
2. Penalties.
3. Duplicate letter of approval.

(c) Inspection fees shall be nonreturnable, nontransferable and non-prorated.

(d) A penalty fee shall be required whenever the annual fee for inspection and renewal is not paid prior to the expiration of the letter of approval.

(e) An additional penalty fee shall be required whenever operations are continued after written notification of letter of approval, suspension, or revocation.

(f) There shall be a fee for a duplicate letter of approval.

(Ord. No. 147-45, § 1(E), 7-28-92; Ord. No. 160-26, §1, 7-22-05)

Sec. 14-745 Enforcement.

It shall be the duty of the director of the department, or the director's designee, to enforce the provisions of this article relating to the regulation of dance halls. For the purpose of inspection and enforcement, the department shall have access to establishments during reasonable hours. In the event any operator of any establishment refuses entry for inspection purposes, the department may obtain a special inspection warrant under section 66.0119 of the Wisconsin Statutes. The director or the director's designee shall enforce violations of this article through the office of the county corporation counsel.

(Ord. No. 147-45, § 1(F), 7-28-92; Ord. No. 160-26, §1, 7-22-05)

Secs. 14-746 – 749 Reserved.

ARTICLE XVI. MASS MEETINGS AND GATHERINGS

DIVISION 1. IN GENERAL

Sec. 14-750 Definition.

As used in this chapter the term "assembly" means a company or group of persons gathered together at any location at a single time for any purpose.

(Ord. of 6-22-71, § II (B); Ord. No. 160-26, §1, 7-22-05)

Sec. 14-751 Purpose.

It is the purpose of the county board of supervisors to regulate the assemblage of large numbers of people in excess of those normally needing the health, sanitary, fire, police, transportation, and utility services regularly provided in Waukesha County, in order that the health, safety, and welfare of all persons in the

county - residents and visitors alike - may be protected.

(Ord. of 6-22-71, § I; Ord. No. 160-26, §1, 7-22-05)

Sec. 14-752 Exemptions.

(a) This chapter shall not apply to any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place of assembly for assemblies that do not exceed the maximum seating capacity of the structure by more than two hundred fifty (250) people.

(b) This chapter shall not apply to government sponsored fairs held on regularly established fairgrounds nor to assemblies required to be licensed by other ordinances and regulations of the county.

(Ord. of 6-22-71, § II (F), (G); Ord. No. 160-26, §1, 7-22-05)

Sec. 14-753 Violations and penalty.

(a) The provisions of this chapter may be enforced by injunction in any court of competent jurisdiction.

(b) The holding of an assembly in violation of any provision or condition contained in this chapter shall be deemed a public nuisance and may be abated as such.

(c) Any person who violates this chapter or any condition upon which he is granted a license may be fined not less than one thousand dollars ($1,000.00) or more than ten thousand dollars ($10,000.00). Each day a violation continues or exists shall be considered a separate offense.

(Ord. of 6-22-71, § VII; Ord. No. 160-26, §1, 7-22-05)

Secs. 14-754 - 14-759 Reserved.

DIVISION 2. LICENSE

Sec. 14-760 Required.

No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give tickets to an actual or reasonably anticipated assembly of one thousand (1,000) or more people that will continue or can reasonably be expected to continue for eighteen (18) or more consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued by the county clerk. A separate license is required for each day and each location in which one thousand (1,000) or more people will assemble or can be reasonably anticipated to assemble.

(Ord. of 6-22-71, § II(A), (C); Ord. No. 160-26, §1, 7-22-05)

Sec. 14-761 What license authorizes.

A license issued under this article shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly. A license shall permit the assembly of only the maximum

number of people stated in the license. The licensee shall not sell tickets to or permit to assemble at the licensed location more than the maximum permissible number of people. The license shall not permit the sound of the assembly to carry unreasonably beyond the enclosed boundaries of the location of the assembly.

(Ord. of 6-22-71, § II(A), (D), (E); Ord. No. 160-26, §1, 7-22-05)

Sec. 14-762 Application.

(a) An application for the license required by this article shall be made in writing to the county clerk at least thirty (30) days in advance of such assembly.

(b) The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual, natural human being, by all officers in the case of a corporation, by all partners in the case of a partnership, or by all officers of an unincorporated association, society, or group, if there be no officers, by all members of such association, society, or group.

(c) The application shall contain and disclose:

1. The name, age, residence and mailing address of all persons required to sign the application, and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding ten (10) percent or more of the stock of said corporation;

2. The address, size and legal description of all property upon which the assembly is to be held together with the name, residence and mailing address of the record owner of the property;

3. Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner of the property that the applicant has permission to use such property for an assembly of one thousand (1,000) or more persons;

4. The nature or purpose of the assembly;

5. The total number of days and/or hours during which the assembly is to last;

6. The maximum number of persons that the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the applicable zoning ordinance if the assembly is to continue overnight;

7. The maximum number of tickets to be sold, if any;

8. The plans of the applicant to limit the maximum number of people permitted to assemble;

9. The plans for supplying potable water including the source, amount available, and location of outlets;

10. The plans for providing toilet and lavatory facilities including the source, number and location, type, and the means of disposing of waste deposited;

11. The plans for holding, collection and disposing of solid waste material;

12. The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses and provisions for emergency ambulance service;

13. The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps;

14. The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots;

15. The plans for telephone service including the source, number and location of telephones;

16. The plans for camping facilities, if any, including facilities available and their location;

17. The plans for security including the number of guards, their deployment, and their names, addresses, credentials and hours of availability;

18. The plans for fire protection including the number, type and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment;

19. The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers;

20. The plans for food concessions and concessioners who will be allowed to operate on the grounds including the names and addresses of all concessioners and their license or permit numbers.

(d) The application shall include the required bond and the required license fee.

(Ord. of 6-22-71, § IV; Ord. No. 160-26, §1, 7-22-05)

Sec. 14-763 Fee.

The fee to be paid to the county for a license required by this article shall be one hundred dollars ($100.00).

(Ord. of 6-22-71, § II(C); Ord. No. 160-26, §1, 7-22-05)

Sec. 14-764 Conditions for issuance.

Before a license is issued pursuant to this article, the applicant shall first:

1. Determine the maximum number of people that will be assembled or admitted to the location of the assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of the nature of the assembly and provided, that, where the assembly is to continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly by applicable zoning or health ordinances;

2. Provide proof that he will furnish at his own expense before the assembly commences:

    a. An area of at least one hundred (100) square feet for each person in attendance at the assembly;

    b. Potable water, meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one-half gallon per person per day;

    c. Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one (1) toilet for every two hundred (200) females and at least one (1) toilet for every three hundred (300) males together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations; provided that a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet;

    d. A sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half (24) pounds of solid waste per person per day, together with a plan for holding and a plan for collecting all such waste at least once each day of the assembly and sufficient trash cans with tight-fitting lids and personnel to perform the task;

    e. Physicians and nurses licensed to practice in the state sufficient to provide the average medical care enjoyed by residents of the state for the maximum number of people to be assembled at the rate of at least one (1) physician for every one thousand (1,000) people and at least one (1) nurse for every one thousand five hundred (1,500) people, together with an enclosed covered structure where treatment may be rendered, containing separately enclosed treatment rooms for each physician, and at least one (1) emergency ambulance available for use at all times;

    f. If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five (5) foot-candles, but not to shine unreasonably beyond the boundaries of the enclosed location of

the assembly;

g. A free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one (1) parking space for every four (4) persons;

h. Telephones connected to outside lines sufficient to provide service for the maximum number of people to be assembled at the rate of at least one (1) separate line and receiver for each one thousand (1,000) persons;

i. If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code and ordinances of this county, sufficient to provide camping accommodations for the maximum number of people to be assembled;

j. Security guards, either regularly employed, duly sworn, off duty state peace officers or private guards, licensed in the state, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one (1) security guard for every two hundred fifty (250) people;

k. Fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and ordinances of this county, and sufficient emergency personnel to efficiently operate the required equipment;

l. All reasonably necessary precautions to insure that the sound of the assembly will not carry unreasonably beyond the boundaries of the location of the assembly;

m. A bond, filed with the county clerk either in cash or underwritten by a surety company licensed to do business in the state at the rate of one dollar ($1.00) per person for the maximum number of people permitted to assemble, which shall indemnify and hold harmless this county or any of its agents, officers, servants, and employees from any liability or causes of action which might arise by reason of granting this license, and from any cost incurred in cleaning up any waste material produced or left by the assembly.

(Ord. of 6-22-71, § III; Ord. No. 160-26, §1, 7-22-05)

Sec. 14-765 Issuance.

The application for a license required by this article shall be processed within twenty (20) days of receipt and shall be issued if there is compliance with all conditions for the license.

(Ord. of 6-22-71, § V; Ord. No. 160-26, §1, 7-22-05)

Sec. 14-766 Revocation.

A license issued under this article may be revoked by the county board of supervisors at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with, or if there ceases to be compliance with any condition previously met.

(Ord. of 6-22-71, § VI; Ord. No. 160-26, §1, 7-22-05)